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THE

WESTMINSTER REVIEW.

JULY, 1827.

ART. I.—1. *Financial Difficulties of Lower Canada.* Quebec. 1825.

2. *Sketch of Business before the Parliament of Lower Canada.* Quebec. 1825.

3. *Rapport d'un Comité Special de la Chambre d'Assemblée sur l'Education.* Quebec. 1825.

THE connexion existing between Great Britain and her colonies is generally believed to be a source of reciprocal benefit; to the colonies, on account of the *protection* which Great Britain affords them; to Great Britain, on account of the exclusive commerce she carries on with her colonial possessions. Whatever may be our objections to this proposition, considered as an abstract principle, we shall reserve them for another occasion; at present it is our object to prove the opinion ill founded in one particular case; to show that whatever advantage may arise from our other colonial connexions, the connexion now existing between this country and Canada, by subjecting Canada to a host of evils, in the shape of bad government, and this country to a no less fearful list, in that of unrequited expense and a ruinous trade, is productive solely of mischief to both parties. To establish these propositions in a satisfactory manner will, indeed, require considerable space; not more, however, than their importance deserves.

If the evil occasioned to Canada by her connexion with England be greater than the benefit we derive from our dominion over her, no honest man would desire to see that dominion continued. Should it appear, however, that we not only harass the colonists, but seriously injure ourselves, common prudence should induce us to relinquish our supremacy. That both suppositions are agreeable to the facts, we undertake

to prove; and shall proceed to adduce our evidence without further preamble.

Canada, when under the dominion of France, was governed by a viceroy, appointed by the French king; was subject to the laws or customs of Paris; and her inhabitants universally professed the Catholic religion. Under the English, a different order of things took place; and the government, after various alterations, was finally established in its present form. These alterations were produced by royal proclamations, by certain ordinances of the English governors, by 14 Geo. III. c. 83, and at length by the celebrated Quebec bill, 31 Geo. III. c. 31. The most important of these arrangements which still subsist, may, as far as regards the present purpose, be stated as follows:

The colony was divided into two distinct governments, and what was originally called the Province of Quebec was separated into Upper and Lower Canada. Into Upper Canada the laws of England were introduced without any alteration; while Lower Canada, comprising all the territory peopled by the French, was permitted to be governed according to the customs of Paris, subject to the modifications we shall hereafter mention.

To each province a separate legislature was appointed, composed after the model of that of England; viz. 1, of a Governor, to be appointed by the crown, and supposed analogous to the king in our constitution; 2, of a Legislative Council, also to be appointed by the crown, and supposed analogous to our House of Peers; and 3, of a House of Assembly, to be elected by the people, and supposed analogous to our House of Commons.

In each province, moreover, a council, called an Executive Council, was established, for the purpose of advising the governor, and constituting with him a court of appeals from the courts of justice below. The members of these councils are to be appointed by the king, or by the governor, subject to the king's approval.

In each province, also, a Court of King's Bench, of Common Pleas, and an Admiralty Court were established, and justice was appointed to be administered nearly after the forms of the English courts. Fortunately for Canada, no Court of Chancery was thought necessary.

The expenses of the civil government were henceforth to be entirely provided for by the people of the provinces, England maintaining what military force, and erecting what forts, she might deem requisite.

The protection, then, which England affords to these colonies consists in maintaining a military force for their defence or

subjection, and in furnishing certain persons to fill the offices of governor, of executive and legislative councillors. Whatever benefits accrue to the colony in consequence of its connexion with England must, therefore, arise from these two circumstances alone. The maintaining a military force, however, to hold the colony under our dominion may or may not be a benefit. If the government, as it now stands, be superior to any the colonists could frame when unaided by England, then the maintaining an army to continue them under our control is really beneficial; but it is the contrary, if our government be worse than that which the colonists could obtain without our interference. Before, therefore, we can determine whether the presence of our army in Canada be a benefit or an evil, we must thoroughly understand the nature of the government which it is placed there to protect.

The Canadian governments consist of two distinct parts, and we must pray our readers to keep this distinction constantly in view; viz. the portion furnished by the superintending power of England, and that which is afforded by the colonies themselves. In the former of these, if in either, must originate whatever benefit the colonies derive from their connexion with Great Britain.

The portion, then, appointed by the superintending power of England is composed of the Governor, the Legislative and Executive Councils. The people of the colony appoint and control the House of Assembly alone. By a comparison of the conduct of these two separate parts of the colonial government, we shall discover if there be any superior excellence in the English section of the administration.

If the question were to be decided by *à priori* presumptions, antecedent to experience, it might certainly be pronounced that of the government of the colony, that portion which is drawn from the colony would be most alive to its interests, and best instructed respecting them. Of the two requisites for a public functionary—probity and knowledge—probity can be reasonably expected only where there is no impunity for improbity; and knowledge of the peculiar wants of a peculiar people, as well as knowledge of the means which the situation of that people affords to supply those wants, can only be obtained by personal experience. It therefore, at least, appears probable that the functionaries appointed by England will prove deficient in these two important qualifications; for the power which appoints them, and whose superintendance is the sole existing check upon their conduct, is at a distance; and the country in which they have been educated, as it differs essentially in climate and

civilization from that one which they are appointed to rule, can afford few examples of the wants and difficulties against which they will there be required to provide. To these evils inherent in the relation between a country and her distant possessions, must be added others arising out of the peculiar character of the English constitution.

The power of nominating the members of the colonial governments is possessed by the ministry; and no one will pretend that fitness to discharge the duties of an office is required by a ministry from those who, backed by aristocratic influence, solicit situations in a colony. The distribution of these offices is one means of influence; they are the reward for services performed, or to be performed, in parliament; and the favour of the ministers is usually obtained by the persons most capable of rendering this species of service. Between parliamentary influence, however, and moral or intellectual excellence, no necessary connexion has yet been discovered. At best, therefore, it is chance, merely, that determines whether the ministers' choice shall fall upon an efficient or inefficient functionary. The manner in which our colonies are usually governed shows that the unfavourable chances predominate.

At the head of colonial situations is the office of governor, an office usually requiring great labour, great experience, great sagacity, and great honesty; unfortunately for the colonies, however, it is but too often attended with great emoluments. The reward is anxiously solicited, while the qualifications requisite to fill the station with decency are in general dispensed with. Governors are almost invariably needy men, surrounded by needy friends; and to supply their wants, the mother country liberally concedes the places of profit in a colony. Men of broken fortunes and unbounded desires are sent to distant colonies, in the expectation that a few years' exile will replenish their coffers. Money is the professed object of their expedition, and the means of collecting it as speedily as possible, the chief object of their attention. This desire of amassing wealth for themselves and their retainers, they are, unfortunately, well able to gratify. And places are, consequently, but too often created for the purpose of annexing a salary thereto, and the public money squandered to gratify private affections. In England, moreover, we are accustomed to see functionaries high in office, enjoying enormous salaries, indulging in an ostentatious display of their magnificence, and carefully inculcating the opinion that government cannot be supported without dignity, nor dignity without expense. All persons connected with our government become possessed of

these opinions; and it is nothing wonderful that every one appointed and supported by its authority should, whenever an opportunity is offered, put these doctrines into practice. Hence we often see a poor and frugal state made to minister to the baneful habits of extravagance, which an education in a wealthy and thriftless community has engendered. From England no effectual check to these dangerous propensities can be reasonably expected. Appeal to the people of England, or to the minister, is too distant to be availing; every petty exaction cannot be recorded, and redress sought the moment the injury is committed: years may pass over before investigation can take place, and the prospect of such distant punishment becomes equivalent to impunity. The ruling party at home, moreover, listen with little complacency to the murmurs of a distant colony; such complaints not only disturbing their quiet, but rendering less efficient the matter of influence furnished by colonial patronage. All these circumstances would lead us to conjecture, that the blessings of English dominion are much more problematical than the eulogizers of colonial connexions are inclined to allow. The facts of the case, however, will render the reality of these benefits still more hypothetical.

When Mr. Pitt proposed his bill for the institution of the Canadian Legislature, he captivated his audience with a description of the manner in which he intended to create a nobility in our American provinces, by the establishment of a Legislative Council.* This council, he said, was to be composed of the *seigneurs* of the country, many of whom were descended from noble families in France, and consequently fully capable of imitating with suitable dignity the nobles of England. Whether he ever intended to create such a council we have no means of determining; all that can at present be stated is, that he never did create it; and at this moment, we believe, but three or four seigneurs selected from the French Canadians have seats in this council: the remainder of the council having been chosen with other ends in view than the establishment of an exact balance in the constitution. To explain what these ends were, we must unfold the constitution of another portion of the English addition to the Canadian government, viz. of the Executive Council.

As the governors are merely sojourners in the country for a few years, coming to it generally utterly ignorant of all that a ruler should know, and leaving it, to be succeeded by others

* The reader must bear in mind that the Legislative Council is the upper, the House of Assembly, the lower House of the Canadian Parliament.

equally ignorant, it was found necessary to establish some permanent body, to guide and instruct these temporary rulers. The rulers themselves could not be dispensed with, the salaries and patronage attendant on the office of governor being among the most efficient means of influence in the hands of the ministry.

At the commencement of the English dominion, therefore, a council was formed, under the direction of the then governor, and the ministry at home. This governor in time left the country; but the councillors remained, possessed of all that knowledge of the affairs of government which it was requisite for a succeeding governor to acquire, and which it was almost impossible for him to acquire without their assistance. As a connecting link between successive governors, the ministers at home soon discovered their utility, and the established rule of colonial government was henceforth adopted: should a governor and his council quarrel, the governor is to be recalled, it being easy to find another governor; impossible, without disturbing the whole scheme of government, to create another council. Such being the power of the council, it was not wonderful that they should turn it to their own account; that they should successively instil into the minds of governors opinions favourable to their private views; and that they should possess themselves of the lucrative offices of the state. The interests of the governors and councillors are thus far the same, that both have an interest in extracting from the people all the money the people can be induced to grant; their interests, however, are in so much different, as that each is separately desirous of engrossing the spoils. But it has been found that more was to be obtained by coalescing than by quarrelling; they accordingly have coalesced, and amicably divided the profits; the profitable places being shared amongst the governor and his friends, and the council and their friends. Reprehension or punishment from those at home, they little dreaded; and could they obtain a majority in the provincial legislature, they would likewise escape all danger of censure from the people of the colony. They possessed no power over the House of Assembly, but happily the Legislative Council was at their disposal. The governor having authority to nominate the members of that council, the executive councillors soon found means of having themselves chosen in sufficient numbers to constitute a majority. And thus it happens that the two councils, executive and legislative, are in reality composed of the same persons, acting in different characters. The interest and ignorance of successive governors led to this consummation; their

interest, which compelled them to be on friendly terms with the Executive Council, and their ignorance of the country and its inhabitants, which enabled the council to impose upon their fears with exaggerated descriptions of the factious and dangerous disposition of the Canadian people, which dispositions, if not counteracted in one of the legislative bodies, might lead, they said, to the disruption of the colony from the parent state. That the latter consummation was one which they sincerely dreaded, we may believe, when we consider what they would lose : that they might possibly pretend a fear which they had not, is also credible, from the natural unpleasantness to be called to account for the manner in which they disposed of the public revenue. They believed that the representatives of the people would have little weight or authority, when deprived of the support of the other branches of the legislature; that all complaints emanating from the House of Assembly, when opposed by the Legislative Council and the Governor, would, in England, be considered as the dictates of a factious and turbulent spirit, seeking to disturb the government by exciting unfounded discontent amongst the people. To excite this opinion in England has been their constant endeavour: They have cast odium on every remonstrance not supported by the united legislature; and united support they are determined never shall be given to any remonstrance affecting themselves. Such, then, are the character and situation of the persons composing that portion of the Canadian government which is supplied by the superintending care of England. They are possessed of unbounded rapacity, and enjoy something very like impunity in its gratification.

Before we detail the consequences resulting from this English admixture in the Canadian government, and illustrate its character by its conduct, we must describe the situation of that portion of the legislature which is supplied by the colony—viz. the House of Assembly. This assembly, though constituted in a manner that may at some future period serve materially to diminish its utility, is at present so circumstanced as to have no interest apart from that of the colony. And in the Lower Province particularly, the House of Assembly has manfully and steadily, though hitherto without much success, opposed the rapacity and extravagance of the executive government.

The Canadian population is composed of two races of people, distinct in their manners, language, and religion; and differing materially in their state of intellectual improvement; the people of the Upper Province being entirely composed of Americans,

and emigrants from Great Britain and Ireland, while the Lower Canadians are almost exclusively descendants from the people of France. The information and manners of the Upper Canadians are in every particular so similar to those of the inhabitants of the United States, that no one, we think, will be inclined to dispute *their* perfect competency to the task of governing themselves. The population of Lower Canada is, however, of a very different description; and may therefore be supposed incompetent, if unassisted by the mother country.

A great majority of the Lower Canadian people is employed in agriculture, almost every man possessing a portion of land, and living generally apart from his neighbours. The villages are thinly scattered over an immense territory; and are chiefly composed of a few straggling houses, whose inhabitants are busily, and incessantly engaged in providing for their daily subsistence. The priest, the seigneur, or his agent, one or two store * keepers, and perhaps a retired trader usually constitute the gentry of the little community; the remainder being composed of the few artificers required by a rude agricultural population. In the society thus constituted, every man is above absolute want, but few can be found out of the towns who are not doomed to daily labour.

There is too, as yet, a very imperfect division of employments. The farmer's family usually weaves the greater part of the clothing he requires; and he often makes his own shoes, his own agricultural implements, his own sugar: the blacksmith, the carpenter, is always a farmer: and the division of labour has not even arrived to that point at which the priest learns to confine himself solely to his spiritual business; the parochial clergyman and the farmer are often united in the same individual. This variety of occupations, although it may enlarge the sphere of a man's knowledge, and by constantly subjecting him to new exigencies, exercise and improve his understanding, must nevertheless in the end, by diminishing his leisure, diminish his means of obtaining information. Thus, accordingly, it is with the Canadian people: they have not much time to devote to the acquirement of knowledge, and unfortunately what little they can spare is seldom beneficially employed. From circumstances that we shall hereafter explain, no efficient provision has yet been made for the education of the people: what little education they now receive, is imparted by the clergy for the purpose of recruiting their own body. From the children of the village, the priest selects a certain number

* *Store*, Anglicè *shop*.

whom he instructs, in hopes that some may be induced to enter the church; the dull boys are immediately dismissed; the clever and intelligent are retained, and receive the instruction necessary to a priest. Of these, however, but few feel a call to the spiritual office; the greater number, either through inability to support the expense of a complete education, or through a desire for earthly enjoyments, take to secular avocations. Those boys who have been educated only by the priest of the village, and have never advanced so far in their studies as to be transferred to the seminaries in Quebec or Montreal, continue, like their fathers, to be farmers or little shop-keepers; while those who have had their education continued at the seminary, and have yet a dislike to the holy vocation, usually become lawyers, physicians, or merchants. From the occupation, moreover, of by far the greater number, viz. agriculture, as well as from their living generally apart from each other, few opportunities are afforded them of assembling together; so that there can be little hope that this defect in education may be remedied by that constant collision of opinions which invariably takes place when men are congregated into great bodies. The Lower Canadians are consequently strikingly inferior to their neighbours the Americans, both in intelligence and enterprise: they are indeed polite, shrewd, and laborious, but are utterly destitute of that enterprising spirit requisite to try new plans, and hazard new speculations; they trudge where their fathers have trudged before them, and are content to live, one generation after another, without improvement, or an attempt at improvement: And thus, while the United States presents daily an ever-changing and improving scene; while bustle, activity, increasing wealth, prosperity, and intelligence, are every where apparent; Lower Canada now, is very much like Lower Canada fifty years since; the same customs continue, the same implements are used, the same prejudices subsist, and wealth, intelligence, and improvement of every description, are but slowly advancing. *

* Lest it should be thought that we exaggerate the backwardness of education in this province, we give the following extract from the Report (3) at the head of our article. The superior of the Seminary of Quebec in answer to the question,

"Quel est l'état actuel de l'education dans cette province?"

Makes the following reply: "Si l'on entend par Education la connoissance même élémentaire des lettres, il faut convenir qu'elle se réduit à très peu de chose, particulièrement dans nos campagnes. Il y a malheureusement plusieurs paroisses où l'on trouveroit à peine cinq ou six personnes capable d'exprimer passablement leurs pensées par écrit, et de faire les règles les plus communes de l'arithmétique. D'après les connoissances que nous avons, nous serions portés à croire que dans nos campagnes par un terme

Upon these men, thus backward in civilization, the British government thought fit to bestow the privilege of choosing representatives to participate in the government of their country. We have therefore a fair test of the capability of this people to govern themselves, in the conduct of the representatives whom they have hitherto selected.

By the act of the Imperial Parliament, which bestowed their present constitution upon the people of Canada, every man possessed of land yielding a revenue of 40*s.* per annum, and in the towns every man paying 10*l.* rent per annum, is entitled to a vote. This in that country, includes nearly every individual.

As lands in Upper Canada are held in free and common soccage, no improper influence can there be exercised over the electors. No one is sufficiently wealthy to be able to bribe them; and the electors being proprietors, no landlords as yet can domineer over them. In Lower Canada, however, the greater part of the land is held *en seigneurie;* that is, the king (the king of France) granted certain large tracts of land to particular individuals, each tract being called a *seigneurie*, the holder a *seigneur*. The seigneur was endowed with power to grant out land in smaller portions to tenants *en fief*, who became proprietors of the soil, rendering to the seigneur certain services in return for such proprietorship; these under-tenants are by law obliged to pay him a certain rent; to grind their corn at his mill; to pay him a certain fine upon every transfer of lands by sale; and the seigneur is moreover entitled at every sale of lands held under him, to claim 40 days after notice of sale being given to him, the land sold, upon paying to the purchaser the sum he has agreed to advance. These different privileges throw considerable power into the hands of the seigneur, and diminish in some degree the perfect independence of the electors. The rent however, as by law established, is a trifle; the tenant is therefore generally able with ease to keep himself free from all debts to his seigneur: and although the other rights we have mentioned are sufficiently vexatious, it is difficult for the seigneur to diminish or increase their vexatiousness. The people are consequently, for the most part, able to elect the men whom they really prefer, to be their representatives in parliament; and as the parliaments sit for four years only, the member must govern his conduct almost entirely according to the wishes of his constituents. The responsibility of the representatives

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moyen, le quart environ de la population Canadienne savent lire passablement." [*Rapport, &c.* p. 32.] Reading and writing, though not education, are absolutely necessary to it. It would be difficult to find an American peasant unable to read, or even unable to write.

being thus almost complete, we may assume that their conduct has hitherto been in accordance with the desires of their electors: and this conduct may be taken as complete evidence of the competency or incompetency of the colonists to the task of managing their own affairs. However unenlightened they may otherwise be (and that they are unenlightened we have fully admitted), yet if they hitherto have had sufficient penetration to discover, and sufficient wisdom to choose, able and, honest representatives, they have done all that the most enlightened nation could have done to insure a wise and upright government.* If the conduct of the representative body have proved eminently conducive to the welfare of the colonies, if it alone have contributed to preserve them from all the miseries of misrule; while, on the other hand, the English portion of the government has alone created and supported every abuse which has at any time served to afflict these colonies, unfitness for the business of government is chargeable only on this latter portion, while perfect competency to that duty is demonstrated to be possessed by the colonists themselves.

Having given this succinct description of the colonial government, we shall endeavour now to detail the consequences of such an imperfect institution to those who dwell under its dominion, and shall commence this list of grievances by an account of the administration of the public money.

We have already stated, that when the present constitution was bestowed upon Canada, the people of the colony undertook to provide the money requisite for the civil government; the House of Assembly, like our House of Commons, having the

* "Although this province," says the very intelligent author of the publication (2) at the head of this article, "has been sixty-five years under the British government, during the greater part of which time that government has been in possession of nearly absolute power in the colony, nothing, or perhaps worse than nothing, has been done till very lately to promote, or even facilitate, the general education of the people, who, during upwards of thirty years have nevertheless been *legally* called upon to meet the king, and give him their advice and consent regarding the public concerns of the province. Much however has been done, and much is doing by the people themselves to promote education. Their natural good sense, and their honest intentions have done a great deal in selecting the fittest representatives whom they could procure. There is hardly an instance of their sending to the Assembly from the country parts, otherwise than substantial and independent proprietors, men of fair private character; the assemblies, upon the whole, uniting as much independence, discernment, and education, as are generally to be found in the representative assemblies of new countries. If any doubt were entertained on this head, the general consistency of their conduct would prove it unfounded.—*Sketch of Business before the Parliament of Lower Canada*, p. 5.

exclusive privilege of originating votes of supply. As faithful stewards of the public, the House was bound to reduce the expenses of the government to their lowest possible amount, and undeviatingly to pursue whatever means were requisite to this end. The means pursued by the House of Assembly in Lower Canada to obtain this end were as follows—1st. They required of the Executive government an exact account of each separate item of the public expenditure: 2nd. They determined to vote an annual supply for such of these separate items as they deemed necessary; and, 3rd. They have constantly demanded of the Executive an exact and detailed account of the state of the public chest, comprehending a statement both of the receipt and of the outlay of the public money. These demands of the House of Assembly, the Executive, that is, the English portion of the government, have hitherto most strenuously opposed, and characterized as actions deserving on the part of all well-disposed persons of the most unsparing reprobation. The similarity of the conduct pursued by this petty government, to that of their mighty brethren in Europe, presents a ludicrous though instructive illustration of the spirit of an irresponsible government. The accusations framed by these insignificant officers, and the epithets they have bestowed upon the defenders of the people, are precisely those which are daily used by our worthy rulers against those who advocate the cause of the many: The same accusations of faction and turbulence, the same dread of every thing republican and levelling, and the same horror of responsibility to the people. The aptness of the imitation will provoke the mirth of the gravest of our readers.

In 1819, the duke of Richmond, the then governor of Canada, sent to the House of Assembly a detailed account of the expenses of the government for the ensuing year, and required the House to grant a supply sufficient to cover these expenses. The House, however, reduced part of the items, and voted a supply for each separate item of the expenses for the time the governor required. This supply was rejected by the Legislative Council, under the following resolution: "That the mode of granting the supply was unconstitutional, and that if the bill were to become a law it would render the servants of the crown dependent on an elective body, instead of being dependent on the crown, and might eventually be made instrumental to the overthrow of that authority, which, by their allegiance, they are bound to support." We have already shown that being dependent on the crown, is in reality being dependent on nobody; being dependent on the House of Assembly, it is evident would produce this effect alone, that the supplies granted would

be appropriated solely to those purposes for which the people provided them. In 1821, however, lord Dalhousie no longer required the annual supply which former governors had demanded; but asked for a permanent provision. "This," says the provincial publication (1) at the head of our article, "was promptly refused by the House of Assembly; it was, however, understood that an annual supply, not detailed by items as in 1819, but by chapters,* would be agreeable to his lordship; the majority of the Assembly consented to a bill of this description, with some increase on the vote of 1819; it however, met with the fate of the former bill in the Legislative Council." In a short time after, the Legislative Council passed the following resolution:† "The Legislative Council will not proceed upon any bill of appropriation for the civil list, which shall contain specifications therein by chapters or items, nor unless the same shall be granted for the life of his majesty:" and in another resolution, 1819, they state, that "they oppose the annual vote, because they are determined to support the supremacy of the parent state, and the constitutional principles and practice of the mother country;" and again, in 1822, they resolved to "prevent an assumption of unconstitutional and illegal powers in the Assembly; and to preserve the officers of the crown from being rendered dependent upon an elective body, by which eventually their allegiance might be endangered; and to prevent the introduction of republican principles and practice, and that pernicious annual dependence upon the favouritism or prejudice of a popular body, which gradually undermines the correct discharge of duty by the public officer, and tends to discourage men of upright and independent mind and character from accepting offices, when the tenure and remuneration would be so precarious." "And," says the publication we have before quoted, "acting on the foregoing pretensions, the annual supplies offered by the Assembly for five years have been refused." In the last session the House of Assembly again refused to pass any permanent vote of supply, and the governor, in a fit of anger, prorogued the parliament. The officers of the government consequently remain unpaid, and public business is at a stand.

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* Chapters: a word used by the Canadian parliament to express distinct classes of expenses: *e. g.* the administration of justice constitutes one class, or chapter, of the expenses of government.

† We quote these provincial publications as well to show the state of feeling in the colony, as by way of confirmation to our own assertions. Our knowledge of the affairs of the colony, however, is by no means derived from these publications; experience, and not hearsay, is our guide.

Some of the reasons inducing the Legislative Council to pursue this conduct must be obvious without specification; there are some, however, which, as they arise from local circumstances, can be known only to those acquainted with the colony.

The Legislative and Executive Councils, as before stated, are in reality the same persons with different names. The Executive Council, in conjunction with the Governor, has the disposal of the public monies. It is for their interest that the money be so granted, that they have unlimited control over it, creating what offices, and appointing what salaries, they please. If for the expenses of the government the Assembly should provide one large sum, leaving entirely to the Executive the distribution of this sum into the separate portions thought necessary; they (the Executive Council) have in reality obtained this unlimited power of disposal; they and their friends would be enabled to possess themselves of all the lucrative offices in the government, while the country would have no security for the due performance of the duties annexed to them. If, on the other hand, the Assembly vote the separate items of supply, apportioning the salaries, and refusing to provide for such officers as they think useless, the Assembly evidently deprives the Executive Council of this desired branch of dominion. Under which state of circumstances, the public money will be most frugally as well as most beneficially expended, we need not observe. If, moreover, the supply should be voted for any long period, both the Executive Council and House of Assembly well know that the officers of the government would riot in uncontrollable license. The governor, it is true, is liable to actions in England for malversations in office in a colony, but every one knows that his evil deeds must swell to an enormous amount before any benefit can be expected from a prosecution in England; the only efficient check upon his actions is, dependence on the colonists for his yearly revenue. But although there may be a shadow of redress as regards the governor, in the case of the executive councillors, his advisers, and the real rulers of the country, even this shadow of relief disappears. They cannot be punished for the governor's acts, although it is well known that he always acts according to their bidding; they thus govern with a power perfectly irresponsible. What expectation of control over their actions, then, can by possibility exist, if they be not placed yearly in danger of losing their emoluments?

The revenues of the Lower Province are partly permanent, partly temporary. The permanent revenues are derived—1st.

From the seignorial dues; that is a species of rent, and certain fees paid to the king by seigneurs holding lands under him: 2nd. From the estates of the Jesuits, which at the extinction of that body devolved to the crown: 3rd. From permanent acts of the imperial legislature: and 4th. From permanent acts of the provincial legislature, both taxing the people of the colony. This permanent supply, however, is not sufficient to defray the expenses of government. The House of Assembly have hitherto made up the deficiency by temporary acts, and have by this means maintained some control over the government. These temporary acts have for this reason proved extremely unacceptable to the Executive, who have been consequently constantly endeavouring to wring from the Assembly a permanent appropriation. The House of Assembly, however, have experienced enough of the conduct of the Executive respecting that portion of the revenue which is already permanent. One of the great difficulties of the House of Assembly has been, to obtain accounts of the disposal of the permanent revenue. So long as the Executive is compelled constantly to demand money from the people, questions must continually obtrude concerning this revenue, the people being naturally reluctant to vote supplies until they are assured that the exigencies of the state require them; of this they cannot be assured till they are acquainted with the disposal of all the monies actually levied from the country. To preserve their control over this fixed revenue, free from the unhallowed gaze of a popular assembly has been the object of the most strenuous exertions on the part of the Executive Council; and they have not failed to deprecate all cognizance of the House of Assembly on this point, as being an insult to the crown, and a breach of the constitution. The following details may perhaps suggest some other reasons for shutting out the light.

The Jesuits, previous to our conquest of Canada, were possessed of immense and flourishing estates in that country; the revenues derived from these estates were, for the most part, expended in the education of the people; and their college at Quebec (which in its dimensions would bear a comparison with almost any edifice in England, dedicated to the purposes of instruction) is a striking proof of their industry and usefulness. Their estates, when the body of Jesuits became extinct, devolved to the crown; *their extensive college was converted into a barrack,* and their revenues, before spent in instructing the inhabitants of the country, were transferred to the pockets of the Executive. Certain commissioners were appointed to administer these estates, and the disposal of the revenues

arising from them has from that time to the present been shrouded in the most profound obscurity. Some years since, indeed, when the House of Assembly deemed it advisable to investigate the manner in which the money had been expended, they met with a flat refusal on the part of the commissioners to answer any of their inquiries. The commissioners were servants of the crown, and it appeared would answer no questions that did not proceed from officers of the crown, lest they should derogate from the dignity of his majesty. Of these commissioners, some were executive councillors, others persons appointed by them.

Another person intrusted with public money is the Receiver-general of the province, an officer appointed by the Treasury in this country, and a member of the Legislative Council. This officer, like his brethren, had a dislike to investigation; he also was a servant of the crown; and every art of his friends was employed to stave off inspection into his accounts. He was accountable to his majesty alone; and nothing could be more unconstitutional and republican than to doubt the solvency and honour of a person on whom the crown bestowed its confidence. Demand after demand was made by the House of Assembly for an account of the money in the public chest: They stated that as they were called upon to provide for the contingencies of the government, their duty towards their constituents imperiously required them to ascertain before they imposed new taxes on the people, that the money already levied had been all expended in the service of the government. To that end they required a detailed account from the Receiver-general of the monies, collected, paid, and at present possessed by him. This reasonable demand was for years eluded or refused; till at length the House refusing to impose new duties on the subject, the Executive could no longer shield the Receiver-general, but were compelled, by pressing exigences, to draw upon him to defray their current expenses. The event proved the wisdom of the House of Assembly.

'In 1824' (we quote from the publication (1) at the head of our article) 'the defalcation in the Receiver-general's chest, amounting to four hundred thousand dollars, was officially communicated by message from the government to the Assembly; *and one of the Receiver-general's accounts was, for the first time since the establishment of the present constitution, laid before the House.* It appeared, on investigation, that the former receiver-general had long owed a large balance, which was stated to be about one hundred and sixty thousand dollars, when he was succeeded by his son in 1809, and that accounts, stating that this large balance, *frequently rapidly increasing*, although occasionally less than

the balance stated by the colonial administration to be in the receiver-general's hands at the disposal of the legislature, had been by the receiver-general regularly laid before the colonial government, and after being reported on by the Executive Council, transmitted to the Treasury in England.'—*Financial Difficulties of Lower Canada,* p. 18.

That is to say these executive councillors, knowing that one of their body was daily spending the money of the people, not only permitted him to remain in office, but shielded him from all inquiry.*

If these men had not been backed by the authority of this country, they could not possibly have practised these malversations for the space of a day. Had the government been entirely in the hands of the colonists themselves, the rulers, whoever they might have been, would have been completely under the control of the people, and would, therefore, not have attempted thus to pillage the public funds, or would, if they had been so fool-hardy as to attempt it, immediately have been cashiered, and punished for their misconduct. But now, under the protection of the English name, owning no obedience but to the authorities in England, supported by English arms, and paid often with English money, they have hitherto braved the representatives of the people, have refused to submit themselves to their scrutiny; and are now endeavouring to foment a quarrel between England and the colony, in the hope that England, tired by the constant disputes between the Executive and the people, will at length resume the power she had before granted, and take upon herself the expenses of the government, as well as the authority of levying taxes on the people. Then, indeed, the servants of the crown will enjoy that happy licence and impunity they so long have desired; then will the colonists partake of the unalloyed blessings of English dominion.

The second consequence of the connexion with England to which we shall allude, is opposition to the progress of education in the province. Of the disposal of the Jesuits' property, originally dedicated to the purposes of instruction, we have spoken already. The sequestration of that property, however, is not all which the English government has done to retard the education of the people. In the year 1801 a bill was passed by both Houses to erect a corporation for the purpose of appointing school-masters, and establishing schools. This plan was pro-

* In this case of the Receiver-general's defalcation, England has refused to indemnify the colony: although the people of the colony were constantly informed that he was the king's officer, and consequently not subject to their control. If England alone had control over him, England surely should answer for his actions.

posed by some members of the colonial government, and was passed by the House of Assembly, not without opposition, however, on the part of the more sagacious members of that body. At that time the people's eyes were not opened to the maladministration of the government, and a majority was regularly accustomed to vote with the Executive. The corporation, however, created in 1801, was not completely organized till 1820. The following is an extract from the "Sketch of Business before the Parliament of Lower Canada":—

'A number of schoolmasters, with salaries of about £60 each, had, however, existed under the act (meaning the act of 1801), some with a few scholars, some without any. In 1817 Sir John Coape Sherbroke had offered to the late Roman Catholic bishop to make him a member of the corporation; which he refused, it is understood, under a knowledge of some instructions to the governors relating to religion and schools, and on the persuasion that the corporation was to be so composed as to give it the influence of his name without his having any power to influence its proceedings. When the list appeared, it contained no Protestants excepting of the church of England, and only three or four Catholics out of twenty-four members. All the effective officers of the corporation were clergymen of the church of England. The chief direction of the education of youth in the province under the act of 1801, was thus given to one religious denomination, forming about the one-hundredth part of the population. No endowments of the schools now under this corporation, as was promised in the act, has ever taken place; the number of children educated at their schools must be trifling, and ever will remain trifling, comparatively with the number of children requiring to be educated, notwithstanding the liberality of the regulations established for them; yet it appears that these schools have already cost the province about thirty thousand pounds of the monies raised on the inhabitants generally.'—*Sketch*, &c. p. 12.

'An inquiry and report were made in 1825 by the House of Assembly, on the effects of the act of 1801, by which it appears that the numbers of scholars in the schools of the corporation was about eleven hundred; and at the same time an address to the crown was voted to place the Jesuits' estates at the disposal of the legislature, to be applied for the purposes of education generally.'—*Sketch*, &c. p. 12.

Eleven hundred scholars, then, is the extent of this corporation's endeavours in a country containing a million of inhabitants. To trust power in the hands of persons irresponsible for its use, is invariably followed by the same consequences: when it is worth using, it is employed for purposes of private emolument; when its employment confers no benefit upon those intrusted with it, idleness and neglect are the result. To fill up the places of the schoolmasters was patronage; they were consequently filled up; to see that the schoolmasters did their duty, gave nothing but trouble; that task was consequently neglected. For

the most part also these places have been conferred upon persons ignorant of the French language, and utter strangers to the people; usually upon boorish and ignorant emigrants just imported from the mother country, whose stupid prejudices unfitted them for the task of educating any body; and, above all, for performing the delicate part of instructing a people differing from themselves in religion, in language, and in manners.

In answer to certain questions of the House of Assembly respecting the state of education in the country, the Seminary of Quebec gives the following reply :—

'Il ne sera peut-être pas tout-à-fait hors de propos d'observer que la loi de la 41° Geo. 3, n'a nullement contribué à améliorer l'état de l'éducation en ce pays. Cette loi, à la vérité, pourvoit à la nomination, et au salaire de maîtres d'écoles; mais ceux qui, par leur position, seroient en état de juger du mérite des personnes qui sollicitent de telles places, n'ayant aucune part à cette nomination, ni aucun droit de les surveiller, on laisse à juger comment peuvent être tenues ces écoles, surtout si les maîtres qui y sont préposés sont des personnes qui le mauvais état de leurs affaires force à prendre cette situation, et qui ne la regardent que comme un pis aller et un dernier moyen de procurer un peu depain à leur famille.'—*Rapport,* &c. p. 32.

And in enumerating the circumstances which retard the progress of education in the province, the same gentleman mentions the want of good elementary schools in the country (dans nos campagnes), and adds,

'La plûpart des maîtres d'école que l'on y trouve, particulièrement ceux qui sont établis en vertu de la 41 de Geo. 3, ne sont point propres à attirer la confiance des habitans du pays; parceque, messires les curés n'ont aucun droit de surveiller leur conduite, et qu'ils sont nommés sans la participation des principaux habitans de l'endroit.'—*Rapport,* &c. p. 33.

The House of Assembly seeing the ill success of these endeavours, introduced a bill in 1817 for establishing schools throughout the colony on the plan of those in Scotland and New England. The bill was annually passed by the House of Assembly, and up to 1823 was annually rejected by the Legislative Council.

'One of the chief features of the bill was, to place all religious denominations upon an equality, with admission in each school to all children of the division for which it was established. Each religious denomination, however, having the management of its own schools, and allowing for each school *established* with a master, and a certain number of scholars in a given time, as an aid to cover the first expenses, eight hundred dollars.'—*Sketch,* &c. p. 11.

This clause, which bestowed the management on the people, took it and its consequent patronage out of the hands of the

Executive. No further reason need be sought for its rejection by the Legislative Council. On account of the continued solicitations of the House of Assembly, however, they at length thought fit to allow the bill to pass, with several modifications for the worse. Its effects were entirely confined to the Catholics; thus drawing a decided line of distinction between the different sects. No public money was allowed the schools; evidently because the Executive was not to have the disposal of it. The schools of the corporation have money appropriated to them, because they are the progeny of the Executive. These schools, however, are nearly useless from the circumstances we have already stated. The public money is expended where it can further no good end, and denied, where it would be beneficial.

Next to this retardment of education, we may mention in the list of disastrous consequences, the mal-administration of justice in the province; mal-administration arising as well from the confused state of the laws as from the complete irresponsibility of the judges: both evils originating from the English dominion.

We have already stated, that at the time of the conquest of Canada, that country was governed by the customs of Paris, subject to such alterations and amendments as should at any time seem fit to the governing power. When England took possession of the colony these laws were abolished, and the English laws enforced by a royal proclamation of the year 1763, and by two ordinances of the governor and council, one in October, 1764, the other in November of the same year. These provided, that there should be erected one superior court of judicature, called the King's Bench, in which the chief justice of the province was to preside, "with power and authority to hear and determine all criminal and civil causes agreeably to the laws of England and to the ordinances of the Province." And also, that "there should be erected a court of Common Pleas, which should determine matters according to equity,* having regard, nevertheless, to the laws of England, as far as circumstances would permit, until such time as proper ordinances for the information of the people could be established by the Governor and Council, agreeable to the laws of England." Justices of the Peace were, by the same ordinance, empowered to decide causes in the country, in which the value in dispute did not exceed five pounds.

The ordinance of November provides, however, that the tenures of land with respect to grants made before the cession

* Not chancery equity, but such equity as is otherwise termed *justice*.

of the province, and the rights of inheritance to such lands, shall be governed by the custom of the country.

The royal proclamation declared, that in all cases where rights or claims were founded on events prior to the conquest of Canada, the "several courts shall be governed in their proceedings by the French usages and customs which have heretofore prevailed in respect to such property;" meaning, doubtless, thereby, that all proceedings arising out of events *posterior* to the conquest should be governed by the English law, according to the general rule. The attorney and solicitor general, however, declared, in April 1766, that they understood the proclamation to introduce into the province "only select parts of the laws of England, that were particularly beneficial to his majesty's English subjects, and not the whole body of laws: and that they considered the criminal laws of England to be almost the only laws that came under that description." The confusion created by these opinions, and the piece-meal legislation we have described, can easily be imagined. We have not space to detail the inconveniences; it requires little penetration, however, to discover, that half a dozen different rules existing at the same time, upon the different points coming under the cognizance of the law, are sufficient to destroy the security of any community. The evils resulting from this unhappy confusion and uncertainty were described and commented on by the late baron Mazeres, in 1769, then attorney-general for the province of Quebec. And although the remedies he proposed have not been adopted, yet legislative enactments have taken place for the purpose of obviating the difficulties he described. By the 14 Geo. III., c 83, all proclamations and ordinances, antecedent to that act, were revoked; and, among others, the following provisions were enacted:

By the 8th section, the laws of Canada, that is the customs of Paris, and certain ordinances of the French governors, antecedent to the conquest, were re-established.

By the 9th section, the tenure of free and common soccage was introduced.

By the 10th section, any one having power to alienate lands, goods, or credits, by deed of sale, gift, or otherwise, is enabled to devise or bequeath the same at his or her death, by his or her last will and testament, notwithstanding any law, usage, or custom, heretofore or now prevailing in the province. Such will being executed according to the laws of Canada, or according to the forms prescribed by the laws of England.

By the 11th section, the criminal law of England is introduced.

And lastly, by the 7th article of an ordinance of the 17th of

the late king, the English rules of evidence are established in commercial cases.

These enactments were far from removing the evils complained of. Continual reference to the English law is rendered absolutely necessary; and that reference must inevitably bring with it a long list of consequences and difficulties, sufficient to perplex the clearest body of laws that the wit of man could frame. The circumstances incident to the tenure of free and common soccage must, for example, be in part determined by the rules of English law. To what extent the English law must supersede the laws of France, in the determination of questions concerning soccage lands, the judge decides according to his fancy. The same uncertainty is created by introducing English forms in wills; questions arise every moment concerning what portion of the English forms are to be adopted. What consequences result from adopting them? Whether, for instance, having decided to adopt the English forms, the *will* so drawn must produce the effects it would produce in England, or whether its consequences are to be regulated by the law of France? Still further to increase this confusion, the English rules of evidence are introduced in commercial cases. What are commercial cases? Here is room for uncertainty. What is included under the terms rules of evidence? Here is yet further room for uncertainty. And as if all this were not sufficient, the criminal law of England is introduced without any modification whatever. Nothing more plainly marks the ignorance of our English legislators on every point connected with jurisprudence than this extraordinary attempt to dove-tail together two unconnected codes of law. They appear not to have known that it is the essence of a criminal code to award certain punishments to those who disturb the enjoyment of those *rights*, and who do not fulfil those *obligations*, which the civil code has established; and that consequently the one code is entirely dependent upon, and intimately connected with, the other. The civil code determines that A has a *right* to a certain field, and imposes an *obligation* on the rest of the community to allow A unmolested enjoyment of this *right*. The criminal code affixes specified punishments to actions disturbing A's enjoyment. Hence it follows, that the criminal code ought to be framed with a perfect knowledge of the rights conferred, and obligations imposed, by the civil code. But who can, for one instant, believe that the code of France conferred rights and imposed obligations the same as those conferred and imposed by the code of England; It is notorious that the laws of the two nations varied materially on many important points; it must, therefore, be evident that

the criminal code of either kingdom is utterly incompetent to maintain the rights and obligations enacted by the civil code of the other. Of this incompatibility, however, our legislators seem either to have been ignorant or regardless, and have, by their ill-judged interference, created inextricable confusion.

'The inhabitants of the towns are loud against the expenses, delay, and uncertainty, of the law. The mass of the population throughout the country pray devoutly that they may have nothing to do with the courts of justice; but, unfortunately, the general ignorance of what is now the law, and the hopes, which among litigious persons increase in proportion to the uncertainty of the law, place the proprietor in a situation to be easily brought into court; perhaps called to a distance of a hundred miles from home, among strangers, not knowing in whom to confide, under a loss of time, so precious to the bulk even of proprietors in this country, heavy expenses of all kinds running on, his cause put off from term to term, he may be nearly a ruined man in property, and, what is worse perhaps, in morals, before an uncertain decision can be had; and when it does come, even in his favour, he is probably little better off.'—*Sketch*, &c. p. 15.

As regards the evils arising from the irresponsibility of the judges and other officers of justice we need say little, after the explanation we have already given of the power and constitution of the Legislative and Executive Councils. The judges are, with a very few exceptions, members of one or the other of these councils, and thus form an important part of the body possessing the whole executive power of the country. Their interests are the same as the interests of the other members of this corporation; therefore, from the corporation we need expect little check upon their evil proceedings. "Ask my brother if I be a thief," is a homely, but an exceedingly shrewd suggestion. The same shrewdness characterized the idea of subjecting the Canadian judges to impeachment before their brethren in the Legislative Council. They by this means give a shadow of redress to the injured suitor, while the substance is carefully withheld. And to render them completely independent of the people, their salraies are paid out of provisions permanently established. The House of Assembly consequently can neither diminish nor refuse the supply. The consequence of this power has been, that the judges (as from the state of the law they easily could) have, under the name of rules of practice, modified the laws according to their will; filled the lucrative offices connected with the law with their own families and dependents; and multiplied fees and delays without end, for the purpose of putting money into their pockets.

To remedy these abuses, and to diminish the undue power of the judges in appointing officers, the House of Assembly has

proposed to abolish all fees, and in their place to bestow salaries on the officers of justice. In this, as in so many other cases, they have not yet been able to succeed. How long would this improper power have existed had the colonists governed themselves?

To these serious evils may be added the arrogant and insulting manners of those officers whom the English government appoints to rule over the country. These manners, unfortunately, are the cause of much serious mischief, as well as of jealousy and heart-burnings amongst the people; and have, perhaps, contributed more than all the real mischiefs we have pointed out, to create that excessive hatred to the English people, which is now but too universally entertained by the Canadians.

Whenever a body of men are possessed of irresponsible power, they have so many interests in opposition to the interests of the community, that a sort of morality, peculiar to themselves and favourable to their own pretensions, invariably arises amongst them. Life is insupportable to almost every man when subject to opprobrium from all his fellow-creatures: even the pick-pocket must have some companions to sympathise with his feelings, to participate in his enjoyments, and aid him in setting at nought the disapprobation of society. He finds his companions among the dishonest, and with them ridicules all common notions of morality, and eulogizes all the arts of trickery and swindling. In like manner the members of an irresponsible governing body aid and abet one another; divide themselves from the rest of society, and enforce, by the sanction of their opinions, rules of conduct agreeable to their separate interests. The English portion of the Canadian government is no exception to this general rule. Steadily have they pursued the path which their interest dictated, and which an education in one of the most aristocratic countries in Europe well fitted them to pursue. The persons whom they feared as likely to disturb their enjoyment of the profits of mis-rule were the people and their representatives; the persons from whom they expected sympathy were all who themselves were fed by the proceeds of mis-government, and all who were living in expectancy of being maintained by the same means. They have, therefore, drawn a distinct line between the Canadian population and themselves. The army, as being themselves the cherished offspring of mis-rule, every "pelting, petty officer" of the English government, every sprig of nobility that happens to be transplanted into that distant country, every off-shoot from a noble stem, though but a twentieth cousin, joined to all clergymen of the church of England, are of their party, and form with them a select and exclusive society. These persons, on all occasions, assume the most ludri-

crous airs of importance, gratuitously dub themselves the *boni*, and *optimates* of the land, and treat with the most contemptuous insolence the unoffending inhabitants of the country. The church, which is seldom backward in setting men together by the ears, has lent her assistance to blow up the flame between these two parties. The English clergy, on all occasions, evince an excessive distrust of the Canadian priesthood; they studiously endeavour to degrade that body as belonging to the inferior party, and to exalt themselves as connected with the party in power: they carefully describe themselves as basking in the sunshine of royal favour, while the opposite sect is represented to be merely tolerated as an unavoidable evil. Every person connected with the government is actuated by the same spirit, and manifests the same behaviour. The most marked distinction is made at the government-house between persons holding official situations, however unimportant, and the inhabitants of the country, however respectable. The latter are treated with the most insufferable arrogance, or the most studied neglect, every place of public resort is rendered irksome to them, and all private intercourse is carefully avoided. This treatment has made a profound impression on the people; an impression which we fear ages will not eradicate. Notwithstanding the outward demonstrations of good-will manifested by the Canadians towards the English people, they bitterly hate every thing connected with the English name; distrust and oppose every thing supported by English interest. They are themselves neglected and abused, their priesthood slighted, their manners, laws, and customs, the subjects of daily scorn and contempt; we need not wonder that they look upon us with feelings very remote from those of attachment. The people are evidently tired of English dominion; they secretly pray for release from our thraldom, and wistfully turn their eyes towards America, where they behold a nation under the dominion of a just and frugal government appointed by themselves, rapidly improving in arts, in literature, and in wealth, extending their commerce to every part of the inhabited world, and rivalling in the extent and wisdom of their undertakings the most civilized and wealthy communities of Europe. The comparison with this people cannot fail to suggest itself, and its unfavourableness to the English administration is apparent to the most careless beholder. It is vainly believed that the people of Lower Canada are peculiarly hostile to the inhabitants of the United States. The English government has indeed endeavoured to foment the dislike which once existed in the minds of the French colonists, towards the colonists of England. But since the United States

became independent this hostility has gradually decayed; and though its dying embers were rekindled during the last American war, they are now extinguished for ever. *Nous serons tout-à-l'heure Yankees* is the universal declaration of the Canadian people.

We would here recall to the recollection of our readers the conclusion to be established by the statements we have adduced. It is continually, and peremptorily asserted, that the superintending power of England has been, and still is, to her colonies, the source of happiness and prosperity far beyond that which the colonies, without her assistance, could possibly attain. This proposition is daily repeated in a thousand different forms. In parliament it is on all occasions assumed; and any one who in that assembly should be so presumptuous as to question it would be visited with unmeasured scorn and indignation. If we were to ask in what shape the blessings, whose existence is assumed, are usually conferred upon the colony, we should have our trouble for our reward; all persons in, and most persons out of, parliament, being as ignorant of the state of our colonial government as of the administration of the Khan of Tartary. To inform this ignorance, and to dissipate existing illusion, we have endeavoured to lay before our readers a correct statement of the present situation of the colonial government, and of the consequences resulting from that government to the people of the colony. Among these consequences are, 1. Improvident expenditure of the public money. 2. Check to the progress of education. 3. Mal-administration of justice. 4. Exciting disgusts and quarrels among the people, and thereby retarding all improvement. These evils we think we have plainly traced to the existing connexion with this country; and we have now to ask what benefits exist in consequence of that connexion, to counter-balance this host of injuries?

Of the competency of the people to govern themselves, we have offered irrefragable evidence, in describing the conduct of the House of Assembly. By comparing that conduct with the proceedings of the Legislative and Executive Councils, we have shown that England, by her interference, adds not either to the honesty or intelligence of the government; neither does England materially assist the colony by money,* for the people themselves provide for the expenses of their civil government. If, then, England, neither by wealth, nor by superior

* England is indeed about to lend Canada a large sum of money, for the purpose of completing a canal: but had there been no defalcation in the Receiver-general's chest, this loan would not have been required. England has, in fact, through her officers, deprived the colony of the money, and then, with apparent kindness, lends her the sum embezzled.

intelligence, nor by superior honesty, contributes to the happiness of the people, in what does her assistance consist? Our commerce would continue if the colony were an independent state; the evils of dependence, therefore, are not redeemed by the advantages arising from commercial intercourse. America flourishes without our assistance as a mother country; Canada is equally independent of our support.

It appears, however, that we maintain at our own expense a large military force, for the purpose of defending the colony. Defending the colony means keeping it under our dominion; and keeping it under our dominion, as we have already seen, means subjecting it to misrule. It is scarcely, therefore, to be enumerated among the *benefits* conferred on the province.

To defend Canada against America may or may not be advantageous to England; of this we shall speak hereafter: to Canada we can by no means allow it to be beneficial. Supposing that Canada would, if deserted by England, become one of the United States; like the other states she would be governed by her own laws, and by her own legislature; would send, like them, deputies to the general congress, and enjoy all the benefits now enjoyed by the other members of that fortunate union. No nations on the face of the globe are so well governed, or so prosperous, as the United States. Nor would the Canadians be greatly injured by becoming one of their confederacy.

But if Canada derives no benefit from the connexion between the two countries, does England derive any?

The trade of Canada consists chiefly in exports of *wood* and *ashes*. The other articles of her commerce are so trifling as not to be worthy of consideration. The benefits of our Canadian monopoly, as far as regards our imports, are to be derived from our commerce in these two articles.

On the subject of the Canadian timber trade we must refer our readers to an article in one of our former Numbers, in which that branch of our commerce was fully discussed. In that article we endeavoured to make it appear that England loses above a million per annum by the preference which she unhappily gives to Canadian timber. We need not here repeat the arguments by which we came to that conclusion, but shall assume the conclusion to be correct. Benefit, therefore, if there be any from our imports, is solely derived from our trade in *ashes*. Our monopoly of Canadian ashes has this effect: viz., to make us pay dearly for an inferior article. It is well known to every merchant conversant with the trade in ashes, that the ashes of the United States are not only in their quality superior to those of Canada, but considerably lower in their price. To protect

the Canadian trade, a duty of 6*s.* per cwt has been imposed on the United States ashes, while those of Canada are allowed to be imported duty free. The scale of average prices for 1826 was as follows:

United States.—*Duty paid.*	Canada.—*Duty free.*
Pot Ashes per cwt. 28*s.*	25*s.* 6*d.*
Pearl Ashes per cwt. 29*s.*	26*s.* 6*d.*

If we subtract the duty from the price of the United States ashes, their average prices will be, Pot Ashes, 22*s.*; Pearl Ashes, 23*s.*; so that we absolutely lost 3*s.* on every cwt of ashes imported from Canada during 1826. The amount of ashes imported from Canada that year was 210,580 cwts; the loss upon which was accordingly £.31,587. This sum, added to the loss of one million per annum by the timber trade, will show the exact result to this country from the import trade with Canada.

A few words only are necessary concerning our exports to that country. It can easily be shown that our exports would not decrease in consequence of a free trade, while our returns would be greater. We might not, perhaps, export so largely to Canada as at present; as the United States, most probably, would then supply us with the greater part of the ashes we required. It is evident, however, that this extra importation from that country must be met on our side with a corresponding increase of exports. True it is, that fewer exports will suffice to procure in return the same amount of ashes in a cheaper market; this, indeed, is the precise benefit which we expect to derive from a free trade in ashes. To those politicians, however, who fancy that the welfare of this country depends upon the abundance of her exports, we would suggest, that Canada would still require our manufactures, and would obtain them either by reducing the prices of her ashes, or by producing other commodities.

There is a set of politicians, however, who defend the policy of maintaining our dominion over Canada, on grounds totally distinct from those we have just discussed. It is advisable, say these counsellors, to preserve Canada, in order to keep in check the increasing power of the United States. This aspiring republic will else assume dominion over the countries we abandon, and extend her empire from the Bay of Mexico to the Polar Sea. Supposing this prophecy to be correct, and its fulfilment to be an evil, it may yet be possible for a still greater evil to arise. If we continue our present dominion over Canada, the inevitable result will be an inveterate hostility, on the part of the Canadians, to the people of Great Britain. The colony must, at some time, and that, too, at no very distant date, be severed from the

mother country; and we have only to choose whether we shall voluntarily renounce dominion, and by this wise and beneficial act make the Canadians our friends, or continue our rule a few years longer, make them our enemies, and at length submit to have the country wrung from our grasp by the combined power of Canada and the United States. It is childish to shut our eyes and determine not to see this result. What the United States did, almost unaided, the Canadians can easily accomplish, when assisted by their powerful neighbour. The people are waiting but for a favourable opportunity to rescue themselves from our subjection, and to throw themselves upon the protection of the United States, whose power we are thus vainly endeavouring to circumscribe. If we voluntarily confer independence on Canada, it is possible (perhaps as regards the Lower Province probable) that Canada may not form a part of the great federal union. If we, however, are determined to give up our power only when no longer able to retain it, Canada must inevitably become one of the United States. To the assistance of those republics she will be indebted for her independence: gratitude, sympathy, and interest, will then induce them to coalesce. War with America will be the immediate consequence of a disturbance in the colony. The citizens of that republic will never be persuaded to be idle spectators of a contest so similar in every respect to that by which they secured their own independence; of a contest, too, carried on at their very doors, and rousing all their feelings of sympathy, compassion, and hatred. Let no one say that the time for this catastrophe is distant. The colony is at this moment in a state of commotion. The House of Assembly has published a manifesto, laying an account of its conduct before the people, and claiming their approbation and support. The House having refused to provide supplies, the government is without money to carry on the current expenses, and is likely still to continue in that destitute condition, as the people are determined to be no longer deceived. Their representatives have marked, in the most unequivocal manner, their dissatisfaction with the present posture of affairs, and are well assured that they speak the opinions of the people. This the Governor (who, it seems, has determined to dissolve the Parliament) will also discover. The same representatives will be again returned, and the same difficulties will arise. This experiment of dissolving the Parliament has once before been tried, and the people elected, with hardly a single exception, their former representatives.

If we allow, however, that in spite of all opposition we shall still be able to maintain our dominion in Canada, and to check

possessed; a facility in talking and deciding on these subjects, which is attended by many especial bad effects, independent of the more ordinary ones which arise from this cause. These are, that the people, thus ignorant, and thus misled into an opinion of their own knowledge, are, as they must necessarily be, the frequent deciders on the production of specimens of architecture—not merely the judges of what is done, but of what is to be done—as proprietors themselves, or the employers of professional artists; at times, as self-constituted artists, and at others as members of committees of various kinds, sitting in judgment on the designs of architects, and deciding on what is to be chosen and erected.

And as a knowledge in architecture, or taste and discrimination in this branch of art, must be acquired by the sight of models or examples, and cannot, indeed, by the mass of the people at least, be attained in any other manner, it must follow, that the far greater number will form their tastes and found their knowledge on what is daily in their view in England, or, chiefly, in the metropolis; since but a small portion of the whole can travel, or have the opportunity of forming their opinions on the sight of good models. There is no other mode, indeed, and especially in England, by which the people at large can attain this knowledge, because our education pays no attention to art; or, in no rank of life, is drawing, or the study of art under any form, included in the acquisitions made during the period of education. And moreover, it is notedly, in all cases, the effect of a constant familiarity with any particular class of objects, to form the taste, or to produce that imperceptible education which constitutes so large a portion of all education; while we need not say that thus do false taste or prejudices become almost invincible or incorrigible.

Hence the great evil which arises from the possession of bad models, and the daily familiarity with bad taste, is not only the production, but the perpetuation of bad taste and ignorance: and if this could be doubted of any thing, it is most amply proved, in this case at least, by the whole history of architecture; in which we see, at different periods and in different countries, how long a particular style or fashion, originally the produce of almost accident, or of a few casual models, has continued to reign, and as often, at least, for evil as for good; maintaining and perpetuating the same bad taste and ignorance, till some fortunate and casual event had occurred, or some better model started up, to correct the evil, and found a new or a different era in art.

In our own country, the Norman, and the several ages of the

pointed style, offer illustrations of this fact, chiefly on the side of good: while, at later dates, the Elizabethan architecture, and that of Vanbrugh, in England, the French or Flemish architecture in Scotland, with examples of many kinds in France and Italy, present analogous illustrations, chiefly on the contrary side: and, in some of the instances, very striking proofs of the influence of a few bad models in corrupting the taste of a whole people through centuries.

Hence arises, partly, that of which we complain, in the recent architecture of the metropolis especially; and hence it is that we judge the demand for a detailed criticism on this subject urgent, and even imperious, on all those who possess a regard for the arts, and for the reputation of their country in art. It is not lamentable, merely, that these faults and deformities should be produced and should exist, that an expenditure which might have adorned this city should have been applied to the deforming it, that these productions will go down to posterity as the records of our disgrace; but that they form the school of architecture to the people in almost all ranks, and promise now, as has always happened in similar cases, to lead to a long period of similar barbarism.

Nor can we admit that it is the taste and knowledge of the people alone which thus suffer. In every age, under like circumstances, the artists themselves have become corrupted: and if, indeed, this had not been the fact, the evil could not have proceeded to that degree which the history of architecture shows us it has done on so many occasions. They were architects who perpetuated, as they had planned, that barbarous and incomprehensible style which followed the extinction of the Gothic architecture; since at that period the people did not interfere, scarcely even in opinions. They were architects who corrupted the better works of Palladio, and perpetuated the abominations which grew out of it in Italy; and it was in the hands of architects that the Gothic architecture became gradually deteriorated, till it fell, to rise no more; as, in their hands, it had arisen to its highest degree of splendour and beauty. So little is the existence of taste a warrant for its continuance, so cautious ought we to be in watching over every departure from it; for when the door to evil is once opened, there is no security that destruction will not follow.

Such a phenomenon is the human mind, on these subjects, as on so many more. It is in vain that beauty exists, if there are not minds by which it is felt and appreciated: it is in vain that it is presented, even with all its histories of former admira-

the growing power of the United States, it is yet a question whether this benefit be not too dearly bought: whether the expenses of our military and naval establishments in our North-American provinces do not outweigh this supposed advantage. What those expenses are it is almost impossible to discover; it being the constant endeavour of our government to keep from the public all knowledge of the real evils attendant on maintaining the colonies of this country. We can, however, lay before our readers an account of some portion of our enormous expenditure in Canada; well aware, indeed, that the account is far from complete.

	£.	s.	d.
It appears, from papers laid before Parliament in 1826, that in 1824-25, there were disbursed on account of the extraordinaries of the army at the different military posts in Canada -	118,214	15	4½
That in consequence of losses sustained in the last war with the United States, by individuals in the two Provinces, this country paid -	68,441	5	9
That there were also paid for Regimental subsistence - - - - - - -	32,335	3	3
For the Commissariat and Account Departments - - - - - - -	9,693	19	4
Half-pay - - - -	10,497	17	7
Do. - - - - -	8,610	11	2
For Ordnance Department - - -	26,732	15	7
Retired allowances and Pensions -	12,544	18	1
Naval Department - - -	19,421	14	3
Arrears to Militia - - -	1,749	11	4
	308,342	11	8½

Also for Military works paid in the same years the enormous sum of 51,475 0 0

Of these works many are not yet finished; still more expense must therefore be incurred. For the citadel of Quebec it is stated that 78,000*l.* more are required to place it in a state of defence. A sum, we believe, exceeding £.50,000, was this year voted for this purpose.

Of the works erected during the last war, many are in ruins, while the navies on the Lakes, which were built at an incredible expense,* will in a very few years be utterly useless. If another war is at any time to be carried on, these expenses must

* Some faint idea may be formed of the incredible ignorance of our Admiralty Board, from the building of some of those ships. The frames of two frigates were actually sent from England to Canada; carried up the

be again incurred, and our burthens be again renewed. A consideration of these circumstances, with the recollection of the current expenses, of which we have given a specimen, should incline Englishmen to be rather doubtful as to the policy of retaining Canada as a counterpoise in America to the United States.

We have purposely abstained from every thing like harsh language in the discussion of this part of our colonial policy. Knowing that there are many persons who honestly believe our colonial possessions to be of infinite importance, we have calmly reasoned the question without reference to those sinister interests, on account of which we firmly believe that these colonies are maintained. If we can persuade the honest part of the public to agree in our opinions, our task is accomplished: we address ourselves to no others.

ART. II.—1. *An Inquiry into the Principles of Beauty in Grecian Architecture, with an Historical View of the Rise and Progress of the Art in Greece.* By George, Earl of Aberdeen. 8vo. pp. 217. Murray.

2. *Specimens of Gothic Architecture, selected from various Edifices in England, &c.* 2 vols. 4to. J. Taylor.

WE have headed this article with the title of the volumes immediately connected with the two popular branches of Architecture, in order to introduce some observations on the present state of that science in England, and on that of the public taste in this respect; and we have deemed it incumbent on us to devote a few pages to this subject, not merely because this has been the practice of our contemporaries, but because we consider that it is a subject admitting of many useful remarks, and very especially demanding criticism or animadversion. And we think this peculiarly the case as regards the metropolis; where the mass of faults and deformities which has been lately produced cannot be contemplated without feelings of great vexation and pain; destined, as those are, to carry down to a somewhat distant day the record of our bad taste and ignorance.

A concurrence, too, of obvious circumstances in the general education and pursuits of the people at large, among which we may especially note a greater familiarity with art in general, added to the increase of foreign travelling, and the consequent acquaintance with noted specimens of architecture, has called the public attention somewhat widely to this subject, producing, not knowledge, but a pretence to it, and a belief that it is

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River St. Lawrence, 380 miles above Quebec, over more than a dozen rapids, and were finally built and launched at Kingston, where there was timber enough to have formed a fleet equal to the whole British navy!

was adapted, and who must yet labour in forming that taste which will but slowly reward him with either praise or profit.

As in many other matters, there is a conventional as well as a real beauty in the productions of architecture, and hence that power of habit in rendering particular modes acceptable and attractive, of which it would be easy to convince ourselves, in reviewing, what we here dare not, the history of this art. Hence it is, that the public condemns, as it also approves. Thus it once condemned that Gothic, which though it had seen, it had not felt or understood. Thus does it yet condemn or overlook the Egyptian architecture. It is by displaying that style that we shall overcome this neglect or these prejudices; while to those who have studied and cultivated their tastes, and who do not blindly follow fashions, it seems to us, that it requires only to be seen in order to be admired.

We might dilate much on the beauties of the several buildings of this character which have been preserved, and on the history and progress of Egyptian architecture; but we shall pass this by, and attempt to analyse this peculiar style, while we compare it with the Greek, to which it bears a nearer affinity than to any of our accepted styles. The comparison will be useful, inasmuch as it is our object to recommend its introduction: and since, in the present day, it has appeared a leading object to unite economy to effect, an object too generally attained through plaster and pretence, we shall first notice this collateral but important part of our subject. It is the expense which is the obstacle at present to Gothic architecture: and while the immense difference between the cost of this species and the Egyptian, renders a balance on this point, between the two, unnecessary, so does the total dissonance of the styles exclude all comparison.

That the Gothic architecture, even in its simplest state, requires expensive ornaments, needs not be said. As to the pure Greek, it is nothing without its columns and its porticos: stripped of its peristyle, its temple is but a barn. Greek architecture, properly speaking, is a collection of columns; and columns are Greek architecture. Remove them, and it has nothing left to distinguish it; it can have no beauty but as a bare wall, as it has no openings except the door. Its entablatures are misplaced, unless they are borne by columns; and its naked pediments are, to our feelings, worse than nothing. The powerful, shadowy, Egyptian entablature can stand alone; and Egypt has no angular pediment to distract the eye from its firm and steady horizontal; none of that form which has always appeared to us an offence against harmony and correct taste, in

the Greek temple. This arose from the necessity of making a barn roof, and it has always appeared to us but a bad expedient to conceal a gable.

If we take now the Palladian, or Italian, or the Roman, which are corrupted Greek, the necessity of ornament, and consequently of expense, becomes more imperious. Those cannot exist without windows, and doors, and pilasters, and stories of columns, and entablatures, and pediments, and porticos; while, in the full style, the latter is an entire mass of ornaments, of faults heaped on faults against good taste; as is but too obvious at the Tuilleries, or at Whitehall, or even, we may grieve to say it, in St. Paul's.

Here it is, especially, that we must lament the departure of this modification of the Greek architecture from the beautiful and graceful simplicity of that whence it has been derived; since, on this subject, the due distribution of ornament, no less than the choice and execution, we can scarcely praise the best models of Greek architecture too highly. But the remark applies chiefly, if not quite exclusively, to the Italian Greek, if we may venture to use this compound appellation; for, in this respect, the Roman Greek possesses little comparatively to blame, whatever objections we might make to the conversion of columns into mere ornaments, and to much more which we do not purpose here to examine. Whether it was that the Gothic models misled the inventors of the Italian architecture into the adoption of the excess of ornament which they have introduced, we do not pretend to conjecture: but the result, as to effect, has been far different. In the Gothic ornaments, independently of the taste which pervades them, and the beauty of the execution, the effect is, to give lightness and grace to that building which would have been ponderous from the general nature of the design, and to add playfulness to simplicity and strength: while, from the management of the entire building an unity of effect is produced, and there is breadth and vacuity introduced to balance and relieve all this flowery gaiety. In the style to which we have objected, there is no such calculation respecting the ornaments. Generally, graceless and ponderous in their designs and execution, they interfere with each other, and load what they neither relieve nor adorn; while, too often, the whole becomes a heap of discordant parts, each striving to catch a separate attention, and the entire wanting that breadth and simplicity in some leading part which should combine and give value to the whole.

Having made this general and slight comparison, for a sort of guide respecting the comparison of expense between these

several styles or modes, as proportioned to their several effects to the eye, let us take a building in the plainest Egyptian manner, and place it by the side of the plainest Greek, or Roman, or Italian, building, and compare the effects; since, in this case, the expense, under equal dimensions, may be considered as equal or similar. Thus reduced, or simplified, the former has, for its distinctive character, nothing but its remarkable and effective concave entablature, its headbanded doorways and windows, if windows are to exist, and its corded or reeded angles; and, thus simplified, we cannot help thinking that its effect is more considerable than that of any equally plain building in either of the other styles, while we need not specify what the appearances of those would be. And that it is equally cheap, is what we can prove, and have proved in actual practice.

If we now compare a columnated Egyptian building with a Greek peristyle, the expense, part for part, dimension for dimension, needs not be greater than that of even the simple Doric, itself the cheapest; while it will, or may be, much less than that of the Corinthian, or even the Ionic. This would be the case were there even column for column. But that is not necessary to the production of a determined effect in this style; and thus it is, that a building of the Egyptian manner may be contrived to produce as powerful and as ornamental an effect, under equal dimensions, as a building in the Greek manner, as any specimen of that style, at a much less expense. To compare a highly-ornamented Egyptian, with an equally ornamented Italian, building, size for size, and style for style, is quite unnecessary; as the difference then becomes much more strikingly in favour of the former.

But these remarks deserve to be extended. The purpose of architecture, or of any other ornamental art, is to produce effect, or the sensation arising from beauty under this particular mode. We do not wait to calculate what was the cost, nor do we scan the number or quantity of parts or ornaments; and not often the individual character of those. And it must be quite superfluous to say, that beauty, or effect, in these cases, does not depend on quantity or multiplicity of parts and ornaments, nor on their choice, merely, and execution; nor, consequently, on the cost which has been bestowed on them. So far is this from being the fact, that it is equally familiar and notorious, how often these several circumstances detract from beauty, or from effect; how often excess of ornament is destructive of it, and how often the very purposes and ends in view are lost in injudicious attempts of this nature. Nothing, in fact, is better established; while, indeed, it should be superfluous to urge this, when sim-

plicity is one of the acknowledged fundamental principles of beauty in the abstract, as well as in the particular art under review.

And let us remark of the Egyptian, as it has been observed of the Greek, architecture, that, in the former as in the latter, this principle seems to have been thoroughly understood; since the same sparingness of ornament characterizes both, and since the same general principle of contrast and of disposition is found in both, however widely the styles and the ornaments themselves may differ. And if, as is acknowledged, the effect, or beauty of a Greek building is greater than that of a much more highly ornamented Italian one, and that this superiority very mainly depends, as it is acknowledged to do, on a good disposition of few ornaments, compared, as to the latter, with a bad disposition of many, then, this being admitted, should it be found or perceived that an Egyptian building attains the same ends through the same general principles, however different the details, the point which we have to prove is in the way of being established. And if, further, it should happen, that an Egyptian building should, with less ornament than the nearest comparable Greek one, produce an equal effect, the whole of our proposition is proved; while it will become an object of future investigation and comparison, when taste shall exert itself on this subject, and prejudice be discarded, whether the fact is really so or not. Our own opinion conforms to our argument, or we think that an Egyptian building does thus gain those ends; but we are too sensible of the influence of habit and prejudice, to suppose that we can convince others of what appears true to us, particularly since these are matters of taste, not of demonstration.

Thus much is all that we can very conveniently remark as to the obvious and visible economy of this species of architecture, or as to the proportion between the cost required to produce a given effect or a determined beauty, and that which is its produce. We might easily give the actual details of cost in comparison, were such a subject fitting for this place. This we must not do. But to take a general case, it may be remarked, that the price of plain masonry is very small compared to that of ornamental work, and that a single fillet, or a narrow course of carved or chiseled work, will often cost as much as the entire wall to which it is the ornament. Thus it is for the capital of a column compared to the shaft, for a fluted compared to a plain one, and so forth: while, with respect to the Gothic architecture in one style, and to the Italian in another, a single window, or a few pinnacles, or a row of tabernacle work, will often eat

up as much money as a large portion of the whole building; as will the garlands, and window pediments, and broken entablatures, and scrolls, and other such matters, in the other, while producing no effect, or a pernicious one, to augment the evil of a wasteful expenditure.

And to finish by saying all that we dare venture in comparison; those portions of the Egyptian style in which its effect depends are peculiarly cheap in the workmanship, compared to those in either of the styles that we have assumed, which most easily admit of being thus compared. The entablature of the one is much less costly than the entablatures in the others, whichever of these we may select; while, on this, a great portion of the effect depends. The reeded angles form a cheap ornament, if there is nothing in any modification of the Greek to which we can exactly compare them; and the door-ways with their head-bands, or other ornaments, are similarly cheaper than any door-way which can well be applied to a Greek building, and far more so than the great majority of the Palladian doors and windows. As to the columns, the comparison would be more tedious, from the variety of both; but here the ancient Doric, at least, would be cheaper than almost any Egyptian one, making the balance against us; though, if we begin at the other extremity, and compare the Corinthian with the most highly ornamented Egyptian, the difference, as far as the capital at least is concerned, would be in our favour, though we do not profess to find much difference in a total comparison of all the varieties in both. But, it must not be forgotten, that, as the Egyptian easily dispenses with ornament, and is always satisfied with little, there will always be a radical difference in its favour on the score of economy, when compared with almost any thing which is not pure or ancient Doric. And we have paid for enough of this work to know that what we have said is well-founded; while practical builders will easily see that we have stated the truth.

So much for obvious economy as to this method of architecture. But there is a concealed economy also in it, dependent on its inherent and superior strength, which, in many cases, is an important circumstance. Durability is economy; and no one will dispute the superior durability of an Egyptian wall or building, when he examines its geometry. The duration of the buildings now remaining in Egypt is a sufficient proof of the radical strength and economy of this style; a duration which is almost marvellous, and to which there is nothing in ancient art to compare. And almost without perceiving it, certainly without imagining that they were copying from Egypt, modern engineers

have adopted the same mode, and, in some cases, the very same angle, when they have intended to erect durable works. There is perhaps not a more admirable collection of masonry in the modern world than that which forms the town of St. Malo, in Brittany; and were the member above the machicolations of the curtains removed and replaced by the Egyptian entablature, it would now pass for a work of ancient Egypt; so exactly does the wall conform, in its angle and general aspect, and even in the materials and perfection of its masonry, to those of an Egyptian temple.

As to the general beauty of the Egyptian architecture, that is a question of taste, and as such it is not a fit subject for argument, particularly when what is commonly called taste consists too often in the borrowed opinions of those who have no power to form an opinion of their own; or else in a fashion which is handed down the world, which admires Greek architecture merely because it is Greek, or because it has been the custom to admire it. In the opinions of those who are thus prejudiced, whatever is Greek must be beautiful; and had the Egyptian architecture been called Greek, it would, doubtless, have been equally admired. In truth, the resemblance is often very considerable, and for the plain reason that the Egyptian is the parent of the Greek; while, though the ordinary public does not think so, the latter have sometimes, we fear, borrowed to deteriorate, the produce falling far short of the beauty of its parent.

Indeed the history of architecture, from the beginning to the end, will inform us what is the value of the public taste in this art. There has passed a century, and more, in which this intelligent public, which sits in judgment upon art and artists, and decides by the pure principles of architectural taste, was admiring, or wondering at Greek architecture, at its beauty, and grace, and simplicity, while it had never seen a specimen of Greek architecture, and did not know in what that consisted. But it was thought or called beautiful merely because it was called and thought Greek: yet this imaginary Greek architecture consisted of the superfœtations, often, of the barbarisms, of ancient Rome, and of the infinitely more barbarous and dissimilar complications of Palladio, or rather of those who, following him, have been ranked under his better name. At last, this discerning public has heard or seen what Greek architecture really was; and now it is just as violent an admirer of Pœstum as it was of Palladio and Bramante, though there is scarcely more resemblance in the styles than between the Horse-guards and the Pagoda at Kew.

Let us not, however, be mistaken; and let it not, above all things, be supposed that we do not set a due value on Greek architecture because we wish to distinguish between what is really Greek and what an uninformed public mistook for it; or because we wish to show that the general admiration of this style among the public at large is not the result of a real sense of its merits or beauty, the produce of taste, and education, and knowledge, but the effect of a fashion and a prejudice. As far as it is a prejudice, founded on all our early impressions with respect to this people and their history, it is natural and not unpardonable: but, as far as it is the result of a fashion, or what we may truly call a cant, it is an evil, as are all similar fashions when they interfere with real knowledge, or become its substitute; giving to the clamorous and ignorant majority that weight which is always injurious, by impeding the progress of taste and knowledge, and interfering with the career of improvement or the efforts of genius and talent. And, therefore, it ceases to be a pardonable prejudice beyond the limits of youth and college impressions; while what we have here said has no other object than to recommend the actual cultivation of taste and knowledge in art, as the only true foundation of a judgment in works of architecture, be the style what it may. Let the Greek architecture be admired because it deserves admiration, and let him who professes to admire it, be able to give the reasons why he does so. And if we have shown that an architecture which was not Greek, was long admired under the errors which conceived it to be such, we have proved all that we intended; that the public was not a competent judge of that to which it pretended: while what we mean to deduce from it is, that when it undertakes to decide against any other style, its opinions deserve no attention, inasmuch as they are not founded on discrimination and taste, but on some casual prejudice or fashion, or the weight of a name, or on an accidental decision of some person, as persons there have ever been, capable of leading the multitude astray.

And if this censure on the public taste be thought severe, we are sure that it is necessary, and think that it will be useful; because it is to the deficiency or the faults of this public taste, that we owe the vexatious and overwhelming deformities in architecture which blot the surface of our country, and are rising around us every day, and because through such censure, we may, as through all other criticism, hope in time to see these faults amended, and real knowledge take the place of presumption and ignorance. And lest it should be thought more severe than truth would justify, let us, for a moment, examine what has

been the history and progress of the public judgment as to the Gothic architecture; since we can equally show, that, in this case, it has been guided by fashion or clamour, and not by knowledge of the subject, or feeling as to the beauties or faults of what it has successively blamed and praised.

It is notorious that in the beginning and far beyond the middle of the last century, the style to which we allude was considered absolutely barbarous: not merely void of beauty, but, specifically, rude, gloomy, clumsy, ponderous, incongruous, fantastical, and whatever else of faulty there was which dislike and contempt could find terms to express. Hence even the very designation Gothic; proverbial then, as it will, perhaps, ever remain, for whatever was coarse, and rude, and deficient in taste; and in all this censure, or this feeling, if we can admit those judges to the use of that term, the entire public joined; while it was, at the same time, no less lavish in its praise of a Greek architecture, as it ignorantly supposed that to be, which was Roman and Italian, since it had not acquired knowledge enough to distinguish the proper Greek style from its later imitations, and from the wide deviations which had been distorted from it.

But almost suddenly, and scarcely longer ago than forty years, the beauties of the Gothic architecture were pointed out by a few men of original taste and feeling; when, with a rapidity, of which there is scarcely an example in similar cases, the whole public judgment was reversed, and as the fashion spread, this ponderous, gloomy, and tasteless architecture was discovered to be the most light, airy, elegant, and graceful that ever was invented, in addition to all its other qualities of beauty, grandeur, magnificence, delicacy, or what not. Assuredly this is all true; but it was as true before 1780 as it is now; and our conclusion is, that had the public possessed the taste on which it presumes, it would have come to the same conclusion from the beginning, and that, however truly it may judge at present on this subject, its opinions are of no value, and would revolve once more, were it possible that a sect of sufficient influence should arise, to reverse and lead its judgments.

Hence it is, that we consider the condemnation of the Egyptian style by the public as no criterion of its demerits, and no proof that it does not possess the beauties which we profess to see in it; and if it has not absolutely condemned this architecture, it has, at least, overlooked such specimens as have been attempted, and shown no interest in the subject, or any desire to see what the effects of its introduction and application might be. But, whatever its decision actually is, or may hereafter be, we cannot help thinking that this judgment will, as usual, be

the result of example or fashion; and it will, therefore, depend materially on the mode of its introduction, and on the persons who may introduce it, as well, probably, as on many unforeseen circumstances, what its success will prove, or how it will be accepted.

We even think that the mere circumstance of fashion, or any casual event that might render the Egyptian style admired, independently of its own intrinsic claims, or through a prejudice, would be sufficient to lead to its introduction; because we are justified in this opinion by the history of architecture, however satirical the remark may appear. And if even merit must often depend for its success upon such feelings or such prejudices, upon such fashion, in reality, we should think it no discredit that it gained acceptance or ground from no better reason, while believing that it will scarcely succeed in establishing itself against such opinion. But such causes of success are casualties on which we know not how to calculate in any thing; nor, we believe, does human ingenuity know how to devise modes of leading the public taste or opinion on any point, however we may sometimes unexpectedly succeed in doing this. Of course, we have no hopes of effecting that ourselves, by any thing that we can say; while it is superfluous to remark that, as far as mere taste is concerned there can be no efficacy in argument, inasmuch as that is not within the reach of demonstration. Yet that need not prevent us from attempting some analysis of the grounds by which we think that a choice may be guided in this case; from dissecting the constituents of this architecture, and stating the best reasons that we can produce why, in the parts and in the whole, it possesses claims to admiration, and these claims founded on reasons which have been admitted as valid with respect to other styles of architecture, or as regards architectural principles at large.

This is all that can be done on a question of this nature, as far as we know; and yet, were the statement demonstrative, we have no right to expect that it would produce the desired effect: such is the evanescence of the spirit of beauty, so vain is it to prove to mankind that they ought to be pleased. This is the difficulty inherent in the very nature of that singular category, Taste: while, if it be true, as is undoubted, that feelings totally unconnected with the subject in review, collateral associations apparently the most remote and unworthy, prejudices, habits, fashions, what not, aid in regulating this feeling, or often form its entire ground-work, it is plain that we must, still, rather expect to gain our ends through the operation and influence of all these circumstances, than by the aid of what are truly the essential ones.

To commence with what is a question of construction, or of utility, if we may use this word, rather than of beauty, we cannot help thinking that durability is one of the essentials of architecture. It is on their architecture that nations pride themselves, even more than on their other works of art; and it is by this that they hope to send down their claims to taste and opulence to posterity. It is the pyramid which is calculated to last for ever; and thus it is that Egypt will perhaps be known when all traces of human art but those she offers shall have vanished from Europe, or perhaps from the world. We cannot, however, build pyramids, and must be content with strength more moderate. That a perpendicular wall depends too much on its foundation, its materials, its masonry, accidents, what not, we need not say. It is by approaching to the pyramidal form, by increasing the base and inclining the angle, that we gain strength and durability; and thus did Egypt endeavour, after a long life, in death. If we choose to adopt the same style, here is one essential point gained. The Gothic architects effected this by means of buttresses; and dexterous as they were in every thing, they contrived to make the supplement to debility, a grace and an ornament.

It is to be asked, however, whether an inclined wall is more beautiful than a vertical wall, or less beautiful. This is again a question of taste, and we know not how it is to be answered. Let those who mean to judge by their eye go to Egypt; let them inspect a modern fortification, or rather examine St. Malo. That seems the only expedient where there are no principles of beauty or taste: but let them remain in Egypt till their eyes have become accustomed to an inclined wall, for that is essential; and above all, let them forget their habits and their prejudices.

Were we to attempt an opinion, we should say, that in all the works of art, and not less in those of nature, when we understand them, fitness, or the adaptation of means to ends, is one of the causes of beauty; an opinion which has been maintained by many metaphysicians. There is another argument from analogy, and perhaps it is an analogy which is only a fact in support of the same reason. A pyramid is more beautiful than a square mass on the same base would be, a cone than a cylinder, and so on, at least in architecture; and hence the obelisk, the steeple, the pinnacle; hence, at least in a great measure, their beauty. If this be a correct view of the cause, the beauty of an inclined wall is dependent on the very fact which forms its stability; if otherwise, our own feelings persuade at least us, that it is at once more beautiful and more stable, uniting thus all the merits which this simple but principal part of all architecture can possess.

Thus much for the fundamental part of this question. We may next examine the entablature, which is the radical ornament, if we may so call it, and which gives the aid most essential in determining the character of this particular style. In fact, the inclined wall and the concave overhanging entablature together, are the basis of the whole style, the characteristic and indispensable parts.

The entablature appears to us graceful and beautiful. It is solid and firm without being ponderous; the form is the most simple that can be imagined, and, in reality, with every air of durability and strength, it is a light form. Other eyes may feel it differently: but we do not know of any moulding more beautiful than that one which is the quadrant of a cylinder; a more simple one, at least, is impossible. To separate it from the wall, to give it as it were a base from which to spring, the simplest of all mouldings is also used—a semicylinder. And as the appearance of solidity must necessarily be continued beyond the concave moulding, since it could not well terminate in a sharp edge, the simplest possible expedient is also adopted; it is followed by a flat member, very beautifully proportioned to its own breadth and to the projecting one from which it springs.

Let us here make a needful remark before we proceed. We have taken, and shall continue to take, the Greek architecture, whether in one part or another, or in the whole, as a point of comparison and reference for the Egyptian, and for the investigation which we are bestowing upon it. But we must not be misapprehended: it is not our intention to use this comparison for the purpose of praising the one at the expense of the other—for the purpose of condemning Greek architecture, while we attempt to show the merits of the Egyptian—or with any view of inducing our countrymen to abandon the one style and introduce the other. Nothing can be further from our intentions: our only wish is to prove that the Egyptian does possess beauties and conveniencies which render it deserving of a place among us, and that there are certain purposes to which it is especially applicable; while it would also give us variety in an art where variety appears to us so essential. But we could not discuss the general question, much less the separate parts, without some points of comparison and reference. And while the Greek, from being familiar, in all its portions as well as in its general character, forms the most convenient reference, so is it the only one possessing a sufficient similarity, in its several members as well as in its general design and character, to admit of these comparisons. It not only includes the parts and circumstances to which, from a certain general

similarity, we can most easily refer, but it contains those general parts or principles which are the foundations or constituents of beauty, and not only of its own, but of that of architecture at large. It is by referring to these general constituents of all architecture that our statement and analysis must proceed; and to this style therefore it is, that we must resort for the very grounds of our demonstration.

As to any criticisms which we may incidentally be led to make on the Greek architecture, it is surely not possessed of any character of sacredness to render the attempt censurable or wicked. As far as its beauties are founded on sound principles, they cannot suffer from such an examination: if it possesses defects, we can see no reason why they should not be pointed out, still less reason why it should not, at least, be submitted to that criticism to which all art is exposed, whatever the result of that examination may be. It is a vicious feeling which avoids or shuns this, as it is an obstacle to excellence or to improvement in any thing: and while this is a philosophical age, which is little inclined to take any thing for granted or proved, without investigation, we must say that we have always observed, that any attempt to interfere with this particular question, or, generally, to doubt any point in assumed Greek excellence, is commonly met with anger or clamour, rather than with that coolness and rationality of inquiry and argument which alone form the road to truth. This is a subject, indeed, to which we might, with the utmost strictness, apply a proverb too hacknied to quote. Let us return to our subject.

Now supposing that the beauty were doubted, there can be no question respecting the superior strength of this, when compared with the Greek entablature, whatever order we may take, as there can be none with regard to its comparative simplicity; a character of infinite value in the fundamental forms of architecture, and a character, also, without which even ornament becomes distraction and deformity.

If we examine the masonry of the Greek entablature (and the same defect pervades much more of that style) we shall find that we cannot impose the cornice, unless we are possessed of very long and heavy stones, or unless we are allowed to surmount it with some weight, some expedient in the nature of a blocking course, very generally adopted in modern buildings, for this very reason. Perhaps we shall even be driven to the use of metal; and in every way there is too commonly an air of suspiciousness and insecurity about it, which, in architecture, is invariably a great fault, and produces a very painful feeling.

On the other hand, nothing can exceed the geometrical con-

trivance of the Egyptian entablature, which can be supported with less than half the expedients or risk; while, in consequence, we ensure a greater degree of that durability which is so essential to the style, as it is essential to all architecture. Every one desires to build for posterity; or, at least, that is the view in public buildings, or in every country where real architectural taste and ambition exist; but the Egyptians almost alone appear to have calculated every thing for this end, as, in every part of their general system, they seem especially to have fixed their regards on a distant futurity.

If we inquire of the purposes of the entablature, in whatever style, it forms an agreeable termination to a wall, deciding that there the artist has intended to stop, and that nothing is wanting. Besides this, it casts a shadow, variable according to the position of the sun, and thus adding to the variety in the effects of the building. It has another use, and a real use, that it serves to conduct the rain off from the wall by means of its cornice; thus preventing discoloration, injury, and inconvenience. It is an ornament, moreover, and it is placed where ornament can be easily applied without disturbing simplicity and breadth; while it is also, in a mechanical view, an expedient to serve certain purposes with regard to the roof, which we need not explain.

These uses are common to the Egyptian with the Greek entablature; but the latter often performs the separate duty of being the immediate object or member which is supported by the columns, or supposed to be so; a purpose more completely dispensed with in the Egyptian style. The convenience of this is obvious, because it dispenses with the necessity of columns.

These are all the remarks, perhaps, which it is necessary to make on the two leading features of the Egyptian style of architecture. Yet we ought not to pass from this member without observing, that as far as its beauty, in any style of architecture, depends on the shadow which it casts, that shadow, in the Egyptian method of forming this part, is far more agreeable to the eye than the hard and dry, sharply cut, dark line, which is thrown on the frieze or architrave, as it may happen, in the Greek entablature. The softness and gradation of the shadow upon that concavity which we may call the frieze, for want of the Egyptian term, which has not descended to us, unite admirably with the form in maintaining that air of breadth, repose, and simplicity, which are so essential to beauty, and so very particularly the characteristic of the architecture of Egypt. How much more economical or cheap the Egyptian entablature is, when compared to the same member in any order of the Greek style, must be apparent on a

moment's consideration, even to those who are not architects.

The apertures are the next circumstances to be noticed in the Egyptian architecture; and here there ought to be very little hesitation in giving it the preference over the pure Greek. Neither, it may be said, possesses windows: we have only to compare the door-ways. It is not indispensable in the Egyptian door-way, that the sides should be inclined; but when there is not a vertical line, such as that of a column, at hand, to render a parallel-sided aperture necessary, we believe there are few who will not give the preference, as a mere matter of beauty, to that door in these buildings, of which the sides are inclined from the perpendicular, and the more decidedly so on account of its conformity to the general outline of the walls.

As an object of beauty simply, excluding utility, the pure Greek door-way is nothing, as it is almost concealed by the peristyle; while the Egyptian one is a real ornament to the building, and is often exceedingly ornamental. The Greek door-way is comparatively mean, often peculiarly uninteresting, from its flat nakedness and want of character. In the other, and in the simplest form, the head-band is a striking, as well as a very pleasing, ornament; while, being a transcript of the entablature, it harmonizes with the main or sole ornament of the building, as the inclined sides do with the outline of its walls. Throwing the same kind of shadow which the great entablature does, it is productive of effect; while it forms a decided and marked termination for the door, defining clearly that which, for want of it, and very often in the Greek architecture, looks merely like a necessary breach in the wall, a contrivance where mere utility alone has been studied.

That head-band, being ornamental and characteristic, is also useful; serving to carry the rain from the entrance, and thus acting the part of the no less beautiful and characteristic Gothic head-band in another style. And we may further remark, that, from this simple principle of ornamenting, the Egyptian architects have so contrived to diverge, as, without ever losing sight of it, to produce a wonderful variety in their door-ways; and all of them which we have been able to discover, marked by beauty, without discord or extravagance. Here they have assumed a somewhat wide scope; while, by the judicious plainness of the surrounding parts, the greatest possible effect is produced by these ornaments; far different from what occurs in the Palladian or Italian style, where every attempt of this kind is destroyed by the neighbouring intrusion of some other part, and all ends in being a distracting mass of confusion.

We may here admire the good taste also, which, in the Egyptian architecture, has adhered steadily to the horizontal line in the upper ornament of its apertures; a beauty which ought to strike every one, possessing the slightest feeling of taste, or sense of congruity, who compares this member with the restless expedients of the Italian Greek school, with their angular pediments, their arched pediments, and that other worse matter with which they have contrived to produce deformity and confusion, and waste money at the same time.

In fact, so bad is the Greek door-way, that from the moment the peristyle was removed, and its insignificance exposed, it became necessary to adopt some mode of ornamenting it, or, in short, to depart from the style altogether; though, with the usual ignorance, preserving the term Greek, and thus misleading those who judged only by this fascinating and favoured term. In how many ways this has been done, it would be here too long to say; and, with a few good expedients, how many offensive ones have been adopted, is well known to those who are really acquainted with architecture.

Let us remark now, that lately, since it has been known what Greek architecture really was, there has been no end to the exclamations of praise bestowed on its artists, for allowing no apertures in their walls but the door-ways. We have heard more than enough of the usual jargon about flatness, simplicity, breadth, and so forth, while the most extravagant praise has been lavished on the great architect of St. Genevieve (for a great man he was), for doing there what he would much better have omitted. Certainly, he has built a blank wall, which does not require any great effort of genius or contrivance; but he and his admirers have seemed equally to forget that St. Genevieve was not a Greek peristyle temple, was not to be a dark scene of iniquitous heathen mystery, but a Christian church; not a cellar to store up gold in, as was a Greek temple; not a vault of the bank of Paris; but a place of daylight worship.

The Greeks had no windows, because windows would have been equally useless and invisible behind their peristyles, as ornaments; and they had no windows, because it was their object, for various reasons, to exclude the light. We, in the plenitude of our admiration, strip off the screen, take away the regimented columns, and then fall down and worship a bare wall, as the last and highest effort of human taste and ingenuity.

How absurdly this mistake has begun to prevail, and how it has been attempted lately to carry it into execution, we have not now time to say; but, as far as the simplicity of a blank wall is commendable, as far as the beauty which arises from

breadth, and repose, and nakedness, is to be obtained, it has been obtained by the Egyptian architects; they have actually effected what the Greeks have been praised for doing, but which, in reality, those artists never attempted. And they have so succeeded by means of their magnificent entablature, and by means of their door-ways, in adding to this nakedness a sufficiency of ornament, simple but effective, that they have really produced that solidity and simplicity of effect which we are most anxious to praise, as we admire it, but which we cannot admire where it never existed, nor praise the Greeks for, when it never was attained, nor even attempted, by them.

There is one other ornament, which, if not universal, is at least very common in the Egyptian buildings, and which may therefore be ranked with the characteristics of their style, while it belongs to that simplest class or stage of their architecture which is what we have here selected for fundamental examination, before proceeding to what is more complicated. And the reason why we here notice it before we have finished with the examination of the apertures is, that it seems to have been one of their expedients for preventing the nakedness of the flat wall from being offensive. It is an ornament which, like the entablature and the door-ways, aids in relieving a simplicity which would otherwise be too great, and in giving a finish to what might else appear rude and neglected.

We mean the cord or reed at the angles; the semicylindrical moulding by which the limit of the wall at the sides is defined, and which is sometimes, not invariably, continuous with the moulding that forms the lowest member or birth-place of the entablature. Every one who has studied this architecture must be sensible of the value of the member in question, and particularly of that finish and definition which it gives to the outline of the building, as well as of the power by which it relieves and justifies the nakedness of the wall. Being also used about the door-ways, it maintains that simplicity and uniformity of ornament which is founded in the correspondence of the entablature and the head-bands; deciding also their forms by its shadows, and not less aiding to prevent the harshness which would arise from the sudden contrast of the dark opening with the full light of the wall.

Before proceeding to the fuller or more ornamental Egyptian manner, we must here digress, for the purpose of answering an objection to the introduction of this architecture among us, founded on this very circumstance, namely, the want of windows, or other apertures than the door-ways.

It will naturally be said, that as, in general, we require two

stories, if not more, and can scarcely, in any case, dispense with windows somewhere, at least below, since all our buildings demand light from without, we shall be unable to make use of this style, except in some very rare cases, or that it will always be inapplicable.

In reality, however, we have no more or other difficulties, as to lighting, in the Egyptian, than we have in the Greek architecture. In neither are there two stages or stories; and in neither, generally speaking, are there any other lights than those which belong to the door-ways; though there are not wanting examples of windows, or separate apertures for light, and that even in an upper stage of the building, in some specimens of the ancient Egyptian structures.

In such examples and such authority, we have, therefore, a sanction for adopting both stages and lights for any necessary purposes: while, if even there were not, we should do no more, in assuming this liberty, and depart no further from the style, than we have been obliged to do in borrowing from the Greek for our churches, dwelling-houses, or other buildings. We need not surely repeat, that every thing which we commonly call Greek architecture is a style of our own invention, though borrowing Greek members, ornaments, and proportions, as far as those are applicable. Nothing but the extreme ignorance to which we have already alluded could mistake this for Greek architecture; and if we recur to the Palladian or Italian system, the resemblance almost disappears in the modifications and additions which the simple principles have undergone. But, borrowing Greek columns, and generally misapplying them, the public is satisfied, and thinks itself in possession of Greek architecture; or else copying ancient Rome, it piles story on story, intermixes arches with quadrangular forms, and fancies it is constructing a Greek building.

We do not object to this: because it is indispensable in the first place, and because also beauty is really thus attainable. All that we mean is, to demand the same liberty in borrowing from Egyptian architecture, should we wish to introduce it into structures that require stages and lights, into churches, public buildings, and dwelling-houses. It is quite as easy to produce a modified architecture from this principle as from the Greek; it is perhaps even easier; and the facility, at any rate, ought to be undeniable, because the Egyptian is the parent of the Greek, and there are still sufficient points of general agreement between them.

All that is necessary in this case is, to adhere to the funda-

mental forms and the essential characters, as those have now been described for the simplest buildings; and by judiciously working from this essential form, there would be no difficulty in erecting storied buildings with any necessary number of lights, and without greater departure from the architecture of Egypt than occurs in a modern Greek building from that of Greece; with infinitely less than occurs in an Italian Greek one.

We have thus gone through, as minutely as appeared necessary for the present purpose, the leading characters and the essential forms of the Egyptian architecture in its simplest state; and it remains to inquire respecting the more complicated structures; the temples, or those buildings which, admitting or adopting columns, are distinguished by their ornament or magnificence.

This is the portion of our subject on which we find it impossible to speak in the same comparative manner; because of the diversity of the Egyptian architecture at this stage, and of the singleness of the Greek. With very few exceptions, we need not say, one general and well-known form or principle includes all the Greek temples, whereas the Egyptian presents many varieties. Thus do its columns also far exceed in number and variety those of Greece, while it possesses a contrivance in its avenue, to which Greek architecture has no parallel. And while we cannot describe Egyptian temples to the comprehension of a reader, without plates, we know of no mode in which we could analyze this part of our subject so as either to explain in what circumstances the beauty ought to consist or does actually appear, or to draw the comparison in point of effect or beauty, or whatever else, between the Greek and the Egyptian temples. All that we can do is, to offer a few remarks on both; trusting the application to such of our readers as are acquainted with both the styles, and, in these remarks, attempting to show, at the hazard of encountering many opinions, and also many prejudices, where it appears to us the Greek architecture has been admired, rather from the habits attached to the name, or from other prejudiced feelings, than from its intrinsic excellence.

And the conclusion, generally, which we think may be drawn is this; that on certain points where the Greek architecture has been praised, the Egyptian also deserves praise, and for the same reasons—that admiration having been withheld, rather on account of the influence of the name than from solid grounds of judgment; that, as far as variety is a source of merit, it excels the Greek, and that, in many circumstances,

it is actually superior; while the refusal of that superiority has arisen from assuming Greek architecture as being in the exclusive possession of all that is excellent, and from judging it, by a species of encycloidal reasoning, through rules derived from itself, rather than on general principles of beauty as to this art at large.

This last we conceive to form, indeed, almost the whole question, as far as it is a question of dispute: and if so, it renders all inquiry superfluous. If the principles of beauty which the Greek artists selected are to be the only principles of beauty in all architecture, we are reduced to the proverbial and elemental solution of all differences of opinion, and the argument terminates as soon as it is commenced. In this case, Gothic and Hindoo architecture will equally be condemned, because there can be but one architecture. Thus also must the Egyptian be rejected without inquiry; at least by those whose admiration for the Greek is of that nature which admits of no comment, not even of analysis, and which cannot give its own reasons: an admiration which admires because it admires. Yet, in this particular instance, the judgment must be faulty, from its very decision and haste; since the two can be perfectly compared, from certain points of similarity existing between them, and those chiefly depending on the fact, that the architecture of Greece was originally derived from that of Egypt. And if there be this resemblance, it must be one of our objects at least to show it; because this will evince that the admirers, who entirely reject the one and praise the other, have not founded their affections on any principles of art or actual knowledge, but are purely guided by the influence of terms. And this chiefly, therefore, is the purpose of the following remarks which we have substituted for that analysis which the circumstances of difference rendered impracticable.

In these we shall show, yet briefly, that while the Greek architecture was derived from the Egyptian, some of the most essential points of resemblance continue very strong, and that as far as there are real reasons for admiring the Greek style, there are similar ones for admitting the Egyptian to praise, because of those very analogies: further, that where Greece ceased to borrow, it left what was not less praiseworthy, and which, therefore, as Egyptian, retains its claims to admiration even under that title; since, to us, the term is nothing: and lastly, that, in balancing the rigid limitation of the Greek to one, or a few forms, with the great variety of Egypt, we are bound to give the palm and praise for at least variety, while that variety is itself a beauty, and a merit; in addition to which,

we may say, that even if it were not such, to have produced variety of beauty is, at the very least, the proof of ingenuity and invention. And if, in this comparison, we cannot avoid censuring the Greek where it appears to us to deserve censure, it is not that we desire to exclude it, or even abstractedly to cite its faults; but merely to mark comparatively where the merit of the other lies; since it is only under comparison that we have the means of doing this at all: adding here only that, while we are desirous that others should admire that Greek which we also admire, we trust, as much as any rational lover of it does, we can feel no approbation of that admiration which is not founded on principles, but which is a phraseology and a fashion; and which, when we suspect its origin, it is not without those solid grounds of suspicion which we have often here stated.

With respect to the Egyptian architecture, there is no reason to doubt that its birth place was India; equally the parent of the Norman Gothic, the acute Gothic and the Tartarian and Moorish styles. Modern Tartary now contains numerous buildings possessing the leading characters of the simplest Egyptian style; and there is no difficulty in tracing the columns, the ornaments, and the other circumstances belonging to it in the endless temples of Hindostan. That India generally is equally the parent of Egypt in other points, and notedly in religious opinions and usages, as well as in philosophy and arts, is an historical fact that confirms this view.

That Greece borrowed from India, its worship, its philosophy, its astronomy, and much more, as well as its language, is sufficiently known; that it borrowed directly, through the travels of its philosophers, in certain cases, appears unquestionable; but it is equally certain that much, probably much more, of its oriental knowledge, came to it through Egypt.

That its architecture was borrowed from this source is rendered as probable as any thing of that nature can well be, by a comparison of the state of that art in Egypt prior to its communication with Greece (the communication of a teacher), with its progress in Greece, and by comparing the styles, the circumstances, the forms in both; while, as a mere probability, this should be evinced by the comparative barbarism and ignorance of Greece when Egypt was in a state of high civilization, and by the general fact of its debts to that and to the neighbouring countries; debts extending even to writing, even, indeed, to an alphabet.

But the demonstration is almost rendered complete, by the obvious resemblances; by the positive borrowing, on the part

of Greece, of the very columns, the very ornaments, the very dispositions, in some cases, of the Egyptian structures; however the pupils were afterwards induced to vary and to modify what they transferred.

Now we need scarcely say, that whether the ancient Doric is really the most beautiful and perfect of the Greek modes or not, it is that which is now most admired: an admiration, the justice or injustice of which is perhaps one of those very points of taste which admits of no discussion. And if, as is the fact, this is the proportion of columns which approaches nearest to the Egyptian, whence unquestionably it was derived, there is no reason for not admiring the Egyptian columns also, as the difference will amount to little more than the name. And if, generally, it is to be determined that this earlier or earliest period of the Greek architecture is the best, this is a reason for extending the same approbation to the Egyptian; because this is the very point where the former approaches most nearly to the parent, whence it afterwards deviated in the adoption of the slenderer and more ornamented orders.

It was in the progress of improvement, or change, that Greece, at times somewhat remote, made alterations in this essential part of architecture; whence were produced the varieties of the Doric, together with the Ionic and the Corinthian: and here the improvement ceased, though we may admit another variety, arising from the two forms of the Ionic capital. We need not distinguish the nicer refinements dependent on the proportions of the shaft; which, we believe, have very often been the consequences of carelessness, caprice, or ignorance, though now attributed to sundry sublimities of feeling.

Whether Egypt produced the varieties of its columns in succession, we have not the means of knowing, for want of records; but it had the good taste or the good fortune to invent many more forms, and thus to give a variety to this part of its architecture which neither the Greeks, nor their imitators the Romans, ever attained or attempted.

It is difficult, or rather impossible, to conjecture why the Greek architects thus stopped short; since it is almost certain that they must have proceeded solely in modifying the shaft from the earliest and rudest Doric column. We might only imagine, and yet, perhaps, not imagine the truth, that, having originally borrowed but the plainest column from Egypt, and thus formed a peristyle temple, their noted vanity prevented them afterwards from applying again to a nation which they affected to treat with contempt, even while resorting to it for instruction. Yet that they did borrow the Corinthian capital is plain, since we trace it most clearly to Egyptian capitals.

That they might have advantageously borrowed more, no one will dispute, except those who will not see any beauty in the various columns of the Egyptian architecture, or in the architecture itself, and those to whom the term Greek is a sufficient warranty for all beauty, while it is the guide of all their decisions; who can talk of simplicity, and grace, and Greek, because others have talked so before them, and who forget, also, that beauty is not rigidly limited to one form or mode.

We are far indeed from pretending to undervalue Greek architecture, but we cannot concede that we are obliged to admire it to the exclusion of all others; and, surely, still less to follow what we think the affectation of the day in reserving all our admiration for the early Doric; a fashion which sufficiently proves on what this imaginary taste is founded. There is room to admire the Egyptian architecture though we do admire the Greek: they do not exclude each other, because there is no reason why we should not admire or possess many architectures; and there is really here the least imaginable reason for any exclusion, since the two styles are derived from one common basis. If we have at length discovered that we may admire the Greek and the Gothic both, there is much more reason for admitting the Greek and the Egyptian to parallel honours or alternate regard.

If we analyze this question as it respects the column alone, Greece remained contented with one shaft, slightly varied in its height, or relative dimensions; slightly varied, we may also add, in its bounding lines. It also ornamented that shaft, but it never succeeded in introducing more than one ornament, the fluting; or perhaps it chose not to attempt more. Here Egypt has introduced many variations; whether advantageously or not is one of those questions of taste on which we must not argue, and on which, certainly, it would be useless to argue with an exclusive admirer of Greek, or of ancient Doric.

It thus at least gained variety; and it remains to see whether variety is not of some consequence, or whether every specimen of architecture is to resemble every other.

In its capitals, we have already said that Greece made one or two steps, and then stopped. The capitals of the Egyptian columns are numerous; and he must be very far gone in Greek exclusion who does not feel and see that many of them are exquisitely beautiful and graceful; and that, by their number, variety of beauty at least has been gained. Let the Corinthian capital be what it may, we have no hesitation in saying, that if some of the Egyptian foliaged capitals had been found in Athens, of the time of Pericles, there would not have been a moment's

hesitation in preferring them. It is a far other question when found in the sands of the Thebaid, the inventions of clumsy Copts instead of elegant Greeks, and the constituents of this "ponderous, gloomy, and graceless" architecture; for even thus has it been denominated. So far, it has only shared the fate of the Gothic: Goths and Copts, Norman barbarians and Egyptian priests have experienced the same justice; while we fear that the names of Pericles and Phidias on the other side, are far stronger sources of admiration than the essential grace and beauty existing in their productions.

We have not much to say on the more complicated results of the elemental forms which have now been examined, and which must be studied in the columnated Egyptian temple. It is a particularly inconvenient subject to treat of in words alone, because words will convey no idea of the forms and dispositions in question. When a Greek temple is mentioned, every one knows what it is; it can be immediately drawn, or it is seen in the mind's eye: but, by no language, can any idea of an Egyptian temple be conveyed. We have little, therefore, to say of it (without drawings for reference) other than that it admits of variety, and possesses variety. There is variety in the dispositions and proportionate numbers of its columns, as there is in their combinations with the solid or blank parts of the building, if we may so call them; while there is variety in the forms of the columns themselves. Above all, the Egyptian temple admits that magnificent and striking feature, the avenue, unknown to the Greek one. We might especially notice its avenues of uniform statues, or its sphinxes; but we must pass from the description of what is little known to the general public, and to which, therefore, they will attach no precise ideas.

Now, if we take the Greek temple to balance against this, we have scarcely any thing but one never-varying form, or a form so slightly varied, at least, that every Greek temple is a transcript or a copy of every other. For whatever else we may choose to praise and admire the Greeks, we certainly cannot grant them the praise of invention, or of inventiveness, in architecture. It would not be very easy to conceive a form more obvious, showing less ingenuity, than a Greek peristyle temple; since it is, and without meaning to speak sarcastically, a long barn, surrounded by a row of pillars, with two opposed gables ill concealed by the ornaments of the pediment, and a dull heavy roof, forming the heaviest of outlines on the sky; a solid unbroken mass. Nothing can well be more uninteresting, more ponderous, than the general outline; and, seen in shadow on a bright sky, it is a weighty lump, and no more.

That they might have advantageously borrowed more, no one will dispute, except those who will not see any beauty in the various columns of the Egyptian architecture, or in the architecture itself, and those to whom the term Greek is a sufficient warranty for all beauty, while it is the guide of all their decisions; who can talk of simplicity, and grace, and Greek, because others have talked so before them, and who forget, also, that beauty is not rigidly limited to one form or mode.

We are far indeed from pretending to undervalue Greek architecture, but we cannot concede that we are obliged to admire it to the exclusion of all others; and, surely, still less to follow what we think the affectation of the day in reserving all our admiration for the early Doric; a fashion which sufficiently proves on what this imaginary taste is founded. There is room to admire the Egyptian architecture though we do admire the Greek: they do not exclude each other, because there is no reason why we should not admire or possess many architectures; and there is really here the least imaginable reason for any exclusion, since the two styles are derived from one common basis. If we have at length discovered that we may admire the Greek and the Gothic both, there is much more reason for admitting the Greek and the Egyptian to parallel honours or alternate regard.

If we analyze this question as it respects the column alone, Greece remained contented with one shaft, slightly varied in its height, or relative dimensions; slightly varied, we may also add, in its bounding lines. It also ornamented that shaft, but it never succeeded in introducing more than one ornament, the fluting; or perhaps it chose not to attempt more. Here Egypt has introduced many variations; whether advantageously or not is one of those questions of taste on which we must not argue, and on which, certainly, it would be useless to argue with an exclusive admirer of Greek, or of ancient Doric.

It thus at least gained variety; and it remains to see whether variety is not of some consequence, or whether every specimen of architecture is to resemble every other.

In its capitals, we have already said that Greece made one or two steps, and then stopped. The capitals of the Egyptian columns are numerous; and he must be very far gone in Greek exclusion who does not feel and see that many of them are exquisitely beautiful and graceful; and that, by their number, variety of beauty at least has been gained. Let the Corinthian capital be what it may, we have no hesitation in saying, that if some of the Egyptian foliaged capitals had been found in Athens, of the time of Pericles, there would not have been a moment's

people, as far as their architecture is concerned. Why it should not be stated, being the obvious fact that it is, we cannot see; as we cannot see the apology which even the warmest friends of Greece can find for it on this ground. We cannot imagine them ignorant of the variety which architecture admitted; partly because they were a highly-inventive people, and partly because the variety of Egypt was open to them at all times, as it had always been. We must leave the problem to be solved by others: but we can never learn to concede that they are defensible on this subject, any more than if, after producing a Discobulus or a Venus, they had contented themselves for ever with making transcripts of the same statue.

We have not yet spoken of the mere ornaments of the Egyptian architecture, and we are sensible that they demand a few words. We are not about to undervalue the grace and elegance of the few ornaments which the Greeks thought proper to adopt, with the exception of the ox-head between the Doric triglyphs, the elegance of which, we must fairly own, we never could discover, however habit has rendered acceptable that which, abstractedly, is a disgusting object, and assuredly, also, void of all beauty of form. And we are equally sensible of the good taste with which the Greek architects proportioned those direct, or superfluous, ornaments, if we may so call them, to the unencumbered parts of their buildings, and of the propriety of the places which they selected for them.

But similar praise is due to the Egyptian architects; and it is not very unreasonable, to suppose that their pupils were indebted to them for the hint, at least, of this taste and these arrangements, as they were for the more essential parts of their architecture. If there has been a silly prejudice, derived chiefly from our early education, causing us to believe that the Greeks were the monopolizers of all taste, as of all learning and philosophy, even of that very learning and philosophy which they borrowed from India, not less has there been a prejudice against Egypt, an opinion of their bungling ignorance and stiffness, of their want of truth, variety, and invention, in all that belongs to art, and very especially in the general arts of design; in sculpture and painting most particularly.

This is a prejudice, and a prejudice founded very much on ignorance. The architecture which we have been discussing, proves that they were not deficient in taste nor in invention; far from it: and if any one doubts their taste in the minor matters of sculpture, in ease and grace and nature, as well as in invention, let him examine the foliaged capitals, to see of what they were capable.

We have derived this prejudice, partly from the examination of their earliest works, works performed at a period before the arts of design were known, and partly from inattention to a fact which ought to have been familiar to all, that they were forbidden, in their sculptures of their deities, to depart from a certain rigid model which is sufficiently well known. A more intimate, and, in some respects, recent acquaintance with Egyptian art, has shown that they possessed the most refined ideas on this subject; confirming what indeed ought to have been deduced from the architectural sculptures to which we have just alluded.

If now their ornaments are as sparingly distributed as in the Greek architecture, so they are placed where their effect serves but to produce what was intended, and where it least interferes with that breadth and simplicity which it was designed to relieve. This will not be denied, when that distribution corresponds with what we find in Greek buildings. No where are they wantonly and injuriously placed; and, in no case, is that overloading to be seen, which would prove the badness of their taste had it really been such, and which is the natural error into which bad taste falls. Let us compare, in this respect, the ornamenting of Egyptian architecture with that of the very artists who had all the simplicity and purity of Greece to guide them; let us examine Palladio or his followers, and there will be no difficulty in deciding to whom the palm of bad taste is to be allotted.

We might make the same comparison between the ornaments themselves of that school, and the Egyptian ones; the inventions of the former, from its hideous scroll, through almost every application which it has adopted, being marked by the most utter want of grace and judgment, and the others, if peculiar, being still always graceful. To pretend to describe what those sculptures are, without drawings, would be fruitless; and those who wish to know them, must consult the published representations. One alone is familiar to the memory of every one; and while it was apparently a necessary or compulsory ornament, from its universal adoption and the religious allusions which it contains, we cannot too much admire the various ingenious and graceful ways in which it is adapted to the varying forms of its places, and to the lines with which it is in contact, the choice of the places for it, with relation to the effect which it was calculated to produce, and the intrinsic beauty of a form combining the three mystical powers which it represents, into one. We need not say that we are speaking of what is called the winged globe; uniting the earth with the

wings of a vulture and the bodies of serpents, and occasionally with that cup, the Buto, which is supposed to bear an allusion to the ark of Noah.

We must now close this comparison, and this sketch of the character and apparent merits of Egyptian architecture. But we must still request those who doubt its powers, to see what it is capable of, by a careful examination of its fundamental characters and of the variations which it admits. If they doubt that it does admit variations, or if they maintain, that, once departing from the rigid models that remain, it is no longer Egyptian, let them ask themselves what is and was the Greek architecture of Old Rome, what is that of former or present Italy, or what is the architecture covering our own country, to which we apply the term Greek.

If we have applied the domes of St. Sophia and the Pantheon to that Greek which we had already modified, composed, combined, and changed—barbarized, we may truly say—in many cases, if we have taken all manner of liberties with even those domes, if we have even borrowed a fundamental figure from the Gothic architecture, combining every dissonant form of that style, inventing unheard of forms, of every variety of ugliness and absurdity, intermixing those with fragments of Greek, and then pileing, heaping, distorting, recombining, and recompounding all this heterogeneous matter into a spire which is not Gothic, and cannot possibly be Greek, surely we have equal power, and may demand the same liberty, with Egyptian architecture. And if we really have produced beauty out of all this heterogeneity, as is unquestionable, forming, in truth, a new style of architecture, though we do not choose to give it a new name, what reason is there why we should stop, when new means of combination are opened to us, and when we may yet form another and a different style; adding to our resources, and gaining further command over that which is so essential—variety?

If it were but for the sake of variety, if the Egyptian architecture had no intrinsic beauty, which we trust it will at some future day be discovered to possess, it would be a style worth introducing and cultivating. To construct buildings for ever on the model of the Greek temple, as the Greeks themselves did, is as if we were never to have but one picture—as if we were to multiply eternal copies of the Transfiguration, and to place it in every gallery and every house. To erect buildings for ever in the Roman Greek or the Italic Greek, is as if we should for ever tie ourselves down to Rubens, or Poussin, or Teniers, and to exclude all other painters, and all other

subjects but those which they painted. Moreover, it is an easily exhaustible style, and it has long been exhausted, and more than exhausted. We can do nothing new; and when we attempt novelty, it is generally the novelty of deterioration. Every church is now worse than the preceding; and every house is either the copy of some other house, or if it is varied, it is varied into other modes of badness. We are wearied of the eternal portico, the endless pediment, the whole endless and tiresome repetitions of worn-out ideas, which even human ingenuity knows not longer how to recombine into a different shape, far less into a better one.

But we must pass from this question. The Gothic, which possesses never-ending variety, we cannot afford to build; we may now take the Egyptian to ourselves, and at least try what we can produce from it, while, fortunately, we can afford to pay for it. What its merits may be, will not be known till the public begins to cultivate the arts on principle, and to acquire a different kind of *taste* from what it now possesses; till it has learned to think for itself, and to show reasons for its thinkings. But if it be a merit in architecture, to possess, not only the aspect of strength, stability, and solidity, but the reality of all these, if majesty and simplicity are merits, and if variety, or the power of being varied, is a merit, then, if we mistake not, the Egyptian style will be found to possess indisputable and intrinsic merits, added to that of furnishing us with new resources in architecture.

If it remains yet for us to suggest the possible applications of this Egyptian architecture, it is a subject for which we have left but little room, and on which perhaps, also, we ought not to say much, lest we should weary the patience that we have tried by this long article.

We shall not, therefore, inquire, minutely at least, how far this style might be modified to admit of being applied to the erection of a modern church; though it is obvious that, as far as the body of the building is concerned, there would be no difficulty. If we must have towers or steeples, it might not perhaps be very easy to produce any thing possessing a real congruity to it; though we certainly should, even then, be little more constrained, if at all, than in our attempts to give a Greek character to a Gothic spire. Nothing can, in reality, be so absurd; though custom causes the educated to overlook it, while the ignorant have very seldom seemed to know that it was not truly Greek: nor can any thing be more utterly unlike to any idea which ever entered into the imagination of a Greek architect, than the steeple which calls itself Greek,

which is placed upon a Roman, Greek, or Italian temple, or a Basilica, and which the good easy public imagines to be really Grecian architecture. But the absurdity is tolerated by habit, even among those who know that it is such: and thus, even real beauty has been produced, since here we recompose, while we also compound, as in fact we have been doing through the whole period of our imitation of Greek architecture. Why the Egyptian might not take similar liberties, we know not; and that it could not also produce similar structures, fully as congruous, remains to be proved.

If we have imagined the modes in which a certain architecture, which is neither Greek nor Gothic, might be modified and applied to an Egyptian temple as the steeple or tower of a modern church, it is what we have not here the means of explaining; but besides this, we should be sorry to think that there are not artists in this country amply competent to it, while we have little doubt that we could point out at least two. The steeple, or some equivalent, has, unfortunately perhaps, been generally made a law or rule not to be departed from by The Church; but, as far as a building without this ornament is admissible, we now see in our mind's eye numerous inventions or modifications which would render this style extremely graceful and appropriate to the purposes of the church itself, and chiefly, perhaps, in town architecture. And with this, we think that we could combine effect, variety, and, what is really essential, economy; since on this quality, as compared to the result in the shape of beauty, we are quite decided respecting the capabilities of the Egyptian architecture. If we have here distinguished between town and country architecture, it is because we think, from the consequences possibly of early habits and associations, that the steeple or tower, which will always be the great difficulty, is more easily dispensed with in a town than in the country, and most easily in the capital; as indeed in all cities in exact proportion to their extent. A forest of spires and towers, such as the city of London presents in one part, is full of impression and effect: where there is but one appearing "in gaggle case" its general effect is of little value.

Yet, to say a few words more on this circumstance, this eternal obstacle, the steeple or tower, if we are not to be called on to fly to the elevation of Bow or St. Bride's, if we can be satisfied with appendages or variations of outline not greater than we see in Waterloo-place or Regent-street, we have no hesitation in asserting, that we should find no difficulty in producing a congruous ornament, or rather a variety of those, perfectly adapted to produce, with a sufficiently pure Egyptian

style in the body of the building, an architectural form of an unexceptionable design and style; and even with respect to the much more difficult case of a steeple, or its equivalent, we but speak from experience, when we say, that we have already seen the attempts made, of uniting modification of a Hindoo architecture to the Egyptian manner, and that as far as we, and others also, may be allowed to decide, these attempts, in different instances, have been successful, and have appeared congruous and harmonious in the execution as well as on paper.

And on the whole of this we must be allowed to make one general remark: because we think that it is a point which has been much misapprehended, and in which the practice has been perpetually contradictory to the general theory of Taste; leading to the most vexatious results, while, at the same time, it is so defended by those whom we must call empirics in art, that there is no prospect, at present, of its being abandoned.

This observation relates to combination of styles and characters in architecture, or to deviation, as it relates to fixed rules derived from any one style. We have but just shown that, with respect to the modern steeple, this practice is admitted and established, and allowed to have been successful; and surely it would be difficult to imagine *a priori* any incongruity so great as that of the application of Greek forms and members to a Gothic altitude and general outline. And the general rule, as it strikes us, is this, that the licence, whatever it may be for any individual case, is to be derived from general and established principles as to the theory of beauty in art.

It is not, therefore, a question, what the style, or date, or country, or designation of the architecture may be, but what are the characters and forms, what the congruity or dissonance, and what will be the result of combination or deviations, as these are to be regulated by the general principles or feelings which form the grounds of decision as to all beauty in art. This has always appeared to us the true and only principle on which a real artist can proceed; while we can never grant that name to him who is checked by pedantic and specific rules, or who attempts to gain his ends, like any other man of rules and receipts, by a mechanical combination of objects, each of which may be individually correct, while the union proves deficient in that without which there can be no beauty, congruity, or adaptation. Thus it is, that we have seen, and daily see, in the metropolis, steeples and churches compounded out of elements individually beautiful, yet producing the most tasteless or offensive effects; while the defence as well as the reason for adoption has been, that they must be correct and beautiful,

because all the circumstances were borrowed from Greek buildings of the highest reputation.

It is the business of the man of real taste and knowledge, as it will, in fact, without reflection, be his impulse, to contemplate all that may come under his cognizance, whether as to the object that is to be produced, or as to the elements out of which it is to be formed, under the general and abstract principles by which beauty in general, and beauty in that particular department which chances to be his object, are regulated. Thus he will become an analyst and a generalizer in art, as the philosopher is in science; reducing things to their elements, investigating their essential properties as distinguished from their accidental ones; divesting them of their peculiar and unessential circumstances, and by means of analogies, reducing and arranging them under those broad and leading views, out of which he will produce what he desires, or what the elements at his disposal admit, under a general view, or under, perhaps, a new combination, with a guiding principle, regulated or dictated by taste, or by a familiarity with the principles and elements of beauty as they concern the object of his study. This is the philosopher in art, and, in reality, it is the man of taste, or of what is called genius; this, in architecture, will be the architect—in whose hands all the existing elements will be subservient to the purposes of beauty, and will also combine in unity: whereas the empiric, in possession of the same materials, will force them into discord and deformity, and produce the effects that we see and suffer from wherever we open our eyes. And in such hands it even is, that new styles and new inventions in architecture will be generated: for even on the combination of familiar materials will the mind of this quality confer the character of originality, as by a more abstracted analysis and re-combination, it will even produce what may possess the character of absolute novelty.

We pass from these general remarks, which we could not well avoid, connected as they are with the matter under review. We have no affection for prisons and workhouses, and all this class of buildings, the memorials of our misfortunes, our vices, or our crimes, and least of all can we ever be persuaded to approve the system which calls them into public notice, and, most ostentatiously, as we have always felt it, renders them specimens of architecture and misguided taste, obtruding on the eye what a common feeling would wish to have concealed, and perpetuating to posterity, as far as possible, the records of our shamefulness and our demerits. Surely this is not a right feeling. The remaining monuments of ancient Egypt and Greece and

Rome are their temples and their theatres and their palaces and their tombs, their works of private or public affection or utility; of worship, or pleasure, or of what we must always, in some way, contemplate with feelings of a grateful or agreeable nature. From us, posterity will receive at least an equal legacy of mad-houses, hospitals, and jails; and, perhaps, when some Australasian or New Zealand architect of the days to come shall journey to England for the improvement of his taste, as we now travel to Thebes or Athens, it will be to wonder what king James or George, resided in Newgate, and, if a single brick of St. James's should be existing, or one fragment of plaster from the palace of Buckingham be recoverable, to what cotton manufactory or warehouse they belonged.

But if we must build such objects under the rules and the pretence of architecture, here is a class to which this style seems often peculiarly applicable. To prisons in particular, if ornamented they must be, its steady strength, simplicity, and blankness (if we may coin such a word), seem peculiarly fitted; and Newgate itself, admirably adapted as its design really is to its purposes, a real specimen of good taste, according to our views of this quality in architecture, will convince us how easily the Egyptian method would apply to those peculiar purposes and forms which ought to characterize the architecture of prisons.

We need scarcely show how admirably it adapts itself to mausoleums, since this application is already made, and may indeed almost be said to involve a character of the very style itself; uniting congruity even of feeling with appropriateness of style and character. And, to pass somewhat suddenly from this, we think that there are innumerable cases or applications of buildings, generally in rural architecture, but often also in a variety of situations, and for various purposes, both in town and in the country, where this style would be found appropriate and ornamental, while combining with economy that effect which it is often very difficult to obtain in a cheap and simple manner. We need not say how difficult it is to produce any thing, for purposes of this nature, in any style pretending to Greek, which is not faulty or bad, or false and feeble; and how infinitely worse all the imitations of a Gothic architecture are for such objects. But as we dare not occupy space with more particular illustrations of our meaning, we shall only further notice the possible application of the Egyptian architecture to manufactories, or other buildings of this general use and character, which unite bulk with, very often, a desire for durability; and which, while

they require strength, cannot well adopt ornament or effect, unless these should be capable of being united to economy.

Here, also, it would be quite beyond our objects to enter into the details of such applications; to inquire how, specifically, such a style might be modified to meet the exigencies of any particular manufactory, and what are those forms or applications of buildings of this nature, for which it might be substituted, or in which it might be introduced. We must trust this to those who are acquainted with such works, and who, to that knowledge, add some general acquaintance with architecture: and we hope that, among such, there are many who, like ourselves, have regretted to see the deformities which cover our island under these applications.

But that we may at least indicate to such persons what it is to which we allude, we could point out in our dock-yards and arsenals (to take the case of government), numerous buildings and applications, where this style would possess beauty and congruity united, and where, without any sacrifice of economy, the effect would be striking or ornamental, and, as it ought to be in such public buildings, creditable to the government and to the nation as a cultivator of the arts.

To give one example, in the case of private manufactories, as an instance of what might be effected in this manner, we may adduce the case of a smelting house, or other similar simple and spacious building; or, still more particularly, as in the example which happens to be just now before us, an iron-foundry and manufactory. In this individual instance very particularly, while the scale and extent of the requisite buildings, and the facility of assuming the most convenient forms without interfering with the needful work, afford the freedom which taste requires, and while no superstructure or story is wanted or admissible, the very peculiar forms of the furnaces, together with their height, and mass, and bulk, and combination, afford a ground-work, such as an architect in this style would have even gladly selected without a special purpose of application, had he not found it ready to his hands. And if we add to this the indispensable openings of the different buildings, of the forges, the foundries, the cast-houses, and the mills, admitting colonnades or porticos, as easily, and even more conveniently, than [illegible] there is every facility that an architect could desire for the application of taste, cramped as it may sometimes be by [illegible], and, most particularly, for the application of the [illegible] under review. And we may add, that we have not a mere speculative case, as some progress has

already been made in an attempt of this kind; producing, as far as it has hitherto proceeded, the effects which we have desired to see, and leading us to hope that the example may hereafter spread, and that the opulent manufacturers of England will hereafter consider it a worthy object to render ornamental, and creditable to themselves and the country, those works by which their wealth is created, as far as this may be possible; and that we shall no longer be pained by those paltry or tasteless buildings, or those absolute deformities and offences, which now blot the surface of the country everywhere, and render our manufacturing towns, especially, a source of absolute pain and vexation.

But it is time that we should conclude, and we will conclude with the wish that the characters of this style, and its applications, may not be rejected, till they have, at least, been fairly examined.

We can scarcely indeed conceive how any one can contemplate the drawings with which Denon has enriched the arts, without being struck with the beauty of the Egyptian buildings. Like the rest of the general public, we ourselves can judge from little else than from these; but we must envy those who have seen, or have the means of seeing, what we should consider an ample remuneration for a journey to that land of wonders, of ancient power and wealth, which, at this day, seem to have been no less miraculous than the part which it was destined to act in history. That men, travelling for the avowed purpose of examining ancient art, should still continue to flock to Athens, and to Athens alone, still crowd and labour to visit the unvaried temples of Greece, to see what has been seen by thousands, to contemplate the mere reality of what they know before they see it, and that which they know already as if they had seen it, which is for ever in our eyes as if it was before us, and which teaches nothing that we did not know before, would appear little less than marvellous, if we did not know the influence of fashion, enthusiasm, and vanity.

That they should do all this, and spend their time and their money in pursuing Agrigentum and Pœstum, when they might visit, or at least equally visit, Heliopolis and Thebes, when they might even examine the very cradle of Greek art, inspect the ever-during works of the most ancient and most powerful of nations, the labours of the architects of posterity, seeing at least variety and novelty, were it no more, would excite our astonishment, did we not know of what materials those travellers consisted. And we might wonder to find the beauty, the splendor, the grandeur, and the numbers, we may add, of those

ancient and extraordinary structures, neglected for the sake of the hacknied and familiar views of Greece, did we not know that those persons were too frequently destitute of all knowledge of art, all education in architecture or in painting, and without those principles and studies on which alone a taste, a real taste can be founded.

ART. III.—*Fifteenth Report on Courts of Justice in Ireland.*—Ordered by the House of Commons to be printed 26 April, 1826.

AMONG the various subjects of warm discussion which attracted the public mind during the past year, not the least interesting, in more respects than one, was what is commonly called the question of *Absenteeism*. This controversy was characterized, among others, by two striking features. In the first place, it was chosen as one of the grounds on which those who had investigated the causes of national wealth with the strictness of a scientific analysis were to be assailed by the supporters of the ancient opinions in trade and finance; by those, namely, whose minds were in that state of self-confidence, that they did not hesitate to account for every moral or economical phenomenon by the standard of their own first-formed opinion, which they usually termed "common sense." The other feature, not less remarkable, was the affected contempt which was manifested by all those who were imbued with aristocratical feelings, towards the writers who had ventured to dissent from an opinion so much in favour with the aristocracy, viz. that while, as landed proprietors, they are following their own pleasure or convenience in residing on their estates, they are also acting meritoriously towards the community. Not only were these sentiments entertained by those who, for the sake of various enjoyments of country life, the sports of the field, the pride of a large establishment, and the desire of provincial display, annually visited their estates, in the self-satisfaction of supposed usefulness and condescending beneficence to the rural population; they were shared even by others who, although themselves constant absentees, could not bear that their presence or their absence should be thought matter of insignificance, and who preferred furnishing themselves with any paltry excuse, rather than justify their practice on a principle which, while it relieved them from culpability, gave a mortal wound to their importance. The ruling classes, and those to whom the favour of the ruling classes is dear, certainly took [illegible] before there was occasion to take alarm, when

that opinion was called into question—an opinion so long consecrated by the consent of fashionable society, by the graver approbation of political treatises and judicial opinions, by the more ramified influence of literary works, essays, plays, and novels innumerable, without once experiencing contradiction. Yet when we refer to the course which this controversy upon absenteeism took, we remark, that the greater portion of the new scepticism regarded the effects of the residence of landlords, compared with their non-residence, simply in an *economical* point of view. That other doubt, so much more dangerous to a territorial aristocracy, whether the *moral* effects of the residence * of the lords of the soil are beneficial, was not urged very strongly, or backed with any considerable display of evidence. So much of such doubt as was expressed, showed only that the charm was broken which forbade inquiry, and that a series of discussions was at hand not very gratifying to their pride.

Here, then, we take up the question. The Irish peasantry are generally allowed (no matter at present from what original causes) to be suffering under the influence of three great evils, or rather, three great classes of evils: extreme poverty—a great deficiency in the arts of life, physical and moral—and a system of oppressive exaction in the collecting of rent and territorial taxes. For all these evils the residence of landed proprietors on their estates is, by a certain class of persons, proposed as a specific remedy. Whether residence can mitigate the first of these evils, is a question of pure economics, which may or may not have been sufficiently elucidated; we are not now inclined to pursue it further. But, as to its efficiency regarding the two latter, there is room for much yet unattempted investigation.

The Irish landlords, according to the fashionable dogma, would, by residing on their estates, advance the civilization of the people, improve their habits and manners, and secure their better obedience to the dictates of morality, and to the laws of society. But, in order to produce these desirable results, it is necessary that they should set forth in their own persons models of good morality and of respect for the laws, rendered more engaging by their considerate kindness towards their dependents.

According to the same dogma, they would, in the capacity of magistrates, check any oppressive conduct towards the

* We shall, throughout this article, use the single word "residence," as the opposite to "absenteeism," in order to avoid the constant repetition of the words "landlords," and "on their estates," before and after it.

peasantry, whether on the part of gentlemen or middle-men, of tithe-owners or tithe-collectors, or of any set of persons having pecuniary demands upon the occupiers of land. To this end, it is necessary that they should be careful to render justice alike to the rich and the poor, without respect of persons, and to teach the peasantry the advantages of subordination to the civil authority by shewing that its protection is equally extended to all.

We propose to inquire, whether the conduct of the Irish gentry actually resident is marked by such admirable qualities, or whether there is not ground for suspecting that it is characterized by the opposite of those qualities; from which inquiry, light will be reflected on the question regarding the probable conduct of those, who from being absentees, might become resident.

But before we begin this important investigation, we must clear away one or two fallacies, which are likely to impede its progress. One of these fallacies is, that the exhibition of a large fortune is in itself a great excitement to the ambition, and consequently to the industry, of the rural population. We shall observe upon this merely, that a very distant and uncertain object supplies a very weak and unsteady motive to action, and that in all men strong exertion is chiefly stimulated by the desire to vie in some sort of display with other persons not far removed from them in rank or profession. Where there is no competition, no hope of superiority, or even of equality, there is no excitement. A peasant is no more stimulated to industry by beholding the fortune of a gentleman, than the latter is tempted to aspire to a crown by the display of the splendor of royalty. And even if it were not so, the exhibition of a large fortune in the shape of an estate in land, is stationary and uniform, whether the owner does or does not reside on it.

The other element of miscalculation exists in the undue importance attached to those improvements in agriculture which resident landlords are alleged to be likely to undertake themselves, or encourage in others.

We are not disposed to dispute, that in the way of breaking rough rural prejudices, resident landlords have occasionally m, and may be again, the instruments of effecting a change the better in the processes of agriculture in their neighrhood. When the spirit of improvement has begun to exist mong the agricultural population, they have assisted to give it vantageous direction. But we incline to think that the e of this beneficial instrumentality has been much

overrated. The number of country gentlemen who are concerned only about field sports, county legislation, and other amusements, is very great, compared with those who interest themselves with the business of agriculture. Of all the immense advances in cultivation which the last century has witnessed in Great Britain, only a small part were the result of the skill, or the pecuniary outlays of the landlords, until the high prices of agricultural produce, during the latter part of that century, held out the prospect of a large return to all investments of capital in farming, and dictated improvements which would, in all probability, have been undertaken to nearly the same extent, whether the landlords had or had not been habitually resident. Of this the history of the advancement of agriculture in the Lowlands of Scotland, where, as compared with England, few of the landlords are resident, offers the most decided confirmation. In Ireland the progress of the art of farming, even on the estates of resident landlords, has been extremely slow, and is yet in its very early stages. And it is worthy of notice, that at this time, when the complaints of absenteeism are at their height, the improvements which are going on, small as they are, are more extensive than any which have ever before been witnessed in that country.* In truth, during the time that the greater number of the Irish proprietors were resident, no improvement of the kind seems ever to have been even attempted. Some of the best cultivated estates in all the south of Ireland are the property of absentees; for example, the estate of earl Fitzwilliam, in the county of Wicklow, and that of the duke of Devonshire, in the county of Waterford,† while some of the worst are the property of residents.‡

We might pursue this course of illustration further, and undertake a much wider induction of confirmatory facts; but for the present we shall content ourselves with a few brief and to our minds conclusive considerations. These are, that agricultural improvements cannot advance in any considerable degree without the assistance of capital; that the usually expensive habits of landlords seldom permit them to save much out of their annual income; that where capital is abundant, the motives to make use of it exist in the minds of the farmers in sufficient strength to secure great and extensive improvements, whether

* See the Article on Ireland, in No. XIII.

† *Vide* Evidence of colonel Currey, Reports of Lords and Commons on the State of Ireland, 1825.

‡ *Vide* Wakefield's Ireland, vol. i, pp. 259, 274.

their landlords are resident or not; that the power and the occasional disposition of the landlords to give to the spirit of enterprise a beneficial direction is, to a certain extent, admitted; but that the accumulation of capital, and the spirit of enterprise, are the effects of causes other than encouragement from the landlords, viz. of security of property, and of confidence in the protection of the laws.

One principal object, then, of our inquiry, is to ascertain the influence of the residence of the landlords upon this all-important incident, the confidence of the people in the protection of the laws.

We have to anticipate a remark, which, made later, would only break the continued course of our argument.

We have not asserted that there are no landed proprietors who have been instrumental in improving the condition of their tenants. To those admirable persons who have resisted the temptations of their situation and the influence of their class, who have rendered their authority as beneficent as it is extensive, and their example as good as it is conspicuous, we know no terms too high to express our respect. Every sinister interest which we may prove to be operating upon the rest of their class, more strongly proves their merit in resisting its seduction. Every instance of selfishness and profligacy in others which we may adduce, only sets their conduct in a more brilliant light. But does the beneficence of these individuals constitute the rule, or the exception to the rule, regarding country residence? This is the question, and the only question before us. Thus we clear away all those cases of individual contrariety to a general principle, which may be brought as objections to any truth disagreeable to the interest or the prejudices of any class of men.*

* But for this preliminary caution we should possibly have heard some talk about "The Ladies Associations for improving the morals and domestic habits of the lower classes of the Irish," if we recollect the title rightly. These Associations, as we hear, consisting each, at the most, of some two or three dozen of ladies of the higher ranks, a few of them being habitually, the greater part only occasionally, resident, have been formed in most of the counties of Ireland (one association to each county), for the objects implied in their designation. In the counties where there are most resident gentry, the associations may consist of some two or three dozen of ladies: in the wilder and more remote counties the number of members is perfectly insignificant. The ladies composing them have distributed among themselves wide districts of scores of square miles in extent, each to be the province of the care and administrative talents of a committee of one, two, or three, as the case may happen, who undertake to improve the morals and domestic habits of one, two, or three hundred thousand peasants. In the exertions of these associations are the benefits of residence confessedly

We proceed to the point in debate—whether the influence of the residence of landlords on their estates is generally beneficial to their tenants. The word "influence," however, is of such vague signification, that it is necessary to fix it more exactly. Effect upon the habits and moral sentiments of their tenants, is the meaning, and the only meaning, that we attach to the term. But effect upon their habits and moral sentiments supposes communication with them of some sort. Of what sort, then, is the communication which takes place between the Irish landlord and his tenants?

It is communication without any sympathy on the part of the gentleman, without any confidence on the part of the peasant; it is communication where every thing may be demanded as a right by the former, and nothing can be hoped for but as a favour by the latter; where there is nothing to lose by insolence on the one hand, and nothing to gain but by submission on the other. What effect can communication such as this have, but that of generating in the superior class a capricious selfishness, in the inferior an abject servility?

All this is pretty plainly predicted in the book of human nature. Is the prediction contradicted or confirmed by experience? The attention which the public are beginning to pay to provincial transactions, and to the condition of our English peasantry, will very soon enable them to decide.

But since our admiration is so boldly claimed for the personal example which the Irish gentry, all probability to the contrary notwithstanding, do actually show to their inferiors, and for the improved morality which they practically diffuse around

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in one of its least questionable forms, in placing examples of a higher state of domestic economy before the eyes of a people of comfortless habits. Suppose now that these associations were as numerically large as they are small, suppose that their exertions were as unremitting and well-directed as they are, probably, from the aristocratic description of the members, at one time indolently remiss, and at another time impatiently unskilful; still what could they do by improving the domestic habits of the peasants in detail, if unrestrained propagation reduces the average reward of their labour to the lowest quantity which will support existence; if the landlords adopt a system of constant intimidation to secure their political dependence; if the rapacity of land-stewards and tithe-proctors endangers the little savings which more than ordinary skill, or more than ordinary industry may have amassed; if all these causes combine to destroy their ambition, their energy, and their industry, and all the higher moralities in the gross? That the first clause of this hypothetical case is unhappily realized, we have endeavoured to point out in a former article; in asserting that the latter clauses are also consistent with the truth, the evidence taken before the Parliamentary Committees on the state of Ireland, as we shall presently show, is equally our warrant.

them, we shall examine the justice of the claim upon the ground on which we are challenged, upon the actual testimony of facts.

I. As to their personal example, let the reader refer for evidence to the 15th Report of the Commissioners appointed to inquire into the state of the Courts of Justice in Ireland. This Report is devoted entirely to describe the manner in which the office of sub-sheriff (the office of high-sheriff is little more than an office in name) is performed. We find it stated in that Report p. 25, and supported by references to the examinations (contained in the Appendix,) of persons who have served the office of sub-sheriff in several counties, that "gentlemen of property and consideration," against whose goods writs of execution had been issued, have entered into a secret understanding with the sub-sheriff, whereby the latter, whose duty it was to execute those writs, has undertaken to make delays against the claims of the plaintiffs "by various pretences, and false and dilatory returns, in order to gain time for the defendant." For this "accommodation," as it is called, the parties accommodated agree to pay what, in plain language, would be called a *bribe*, but which, for the sake of euphony, is usually termed a "commission."

Detailed instances of this system of fraudful collusion connected with the names of some of those "gentlemen of property and consideration" are given, which are too numerous and too long for insertion here.

But the evidence itself of the sub-sheriffs ought to be read by all those who wish to understand any thing of the manners of the Irish gentry, and of the example which they set to a "lawless" peasantry. To this evidence we regret that we can do little more than allude; but notwithstanding the restraint which our limits impose, we cannot avoid noticing two or three of the most remarkable passages:—

Mr. John Bourke, under-sheriff of the county of Mayo, states, that "*of six embarrassed persons in his county who are enabled to evade process, four are magistrates.*"—p. 134.

Mr. John Cuthbert, under-sheriff of the county of Limerick, states, "that among the persons in the county of Limerick who had contrived to avoid the execution of writs of arrest lodged against them, *there were many in the rank of gentlemen, considerably more than twenty, and amongst those, from seven to eight baronets.*"—p. 189.

'Are many of those persons who are enabled to evade the execution of writs of *fieri facias* live at a considerable expense, and with means apparently their own?—A. They appear to do so.'

'*Q.* In cases where the defendant in a writ of *fieri facias* has a house furnished, how is he enabled to protect the furniture from seizure? —*A.* By keeping the door closed against the sheriff and his officers.'

'*Q.* Are many of the gentry of the county Limerick in the circumstances described in the previous question?—*A.* I am on my oath, and bound to answer the question fully; *I consider the majority.*'—p. 185.

Mr. John Smith, under-sheriff of the county of Galway, states, that of persons resident in the county Galway who have been in the habit of evading writs against their persons lodged with the sheriff by their creditors, "he does not recollect more than seven or eight, and they are in the rank of gentlemen. *Some of these are magistrates of the county, I think there are four.*"—p. 207.

Much more evidence than this we could draw from the same source; evidence relating to the gentry in almost every county in Ireland. But surely, even if our limits did not restrain us, we have already adduced enough, and more than enough to shew, what sort of regard to common honesty in incurring larger debts than they can pay, and what sort of respect for the laws in evading their execution, is exhibited to the peasantry by a considerable number of the Irish gentry, including, not a few even of the administrators of those very laws, of the self-styled guardians of public morality, of the magistrates themselves.

But the great body of the gentry of Ireland do not encourage this course of conduct—No; but do they discourage it? do they attack it by their reprobation, private as well as public? above all, do they endeavour to visit these evasions of the laws with the whole vigour of their territorial and magisterial authority, as they would visit the transgressions of similarly offending peasants? If they do not (and who is there so regardless of veracity as to affirm that they do?) they share the culpability of those whose offences they connive at; and if they have not thought fit to separate themselves from the dissipated and the lawless, in society, in opinion, and in public view, neither will *we* make the separation.

Having now gained a little information respecting the example which the country gentlemen of Ireland exhibit to the people in their conduct as individuals, let us ask whether better specimens of morality are set forth in their public capacity as *grand-jurymen.*

Our readers are probably aware, that in Ireland the business of preliminary investigation into criminal cases forms a very small part of the functions of grand juries, and that such business is,

in fact, only the pretence to cover the extensive power which those bodies exercise as local legislatures. To the jurisdiction of the grand jury in each county, are referred all matters relating to the making and repairing of roads, bridges, gaols, and court-houses; compensations for losses by insurrectionary outrages, the appointments and salaries of county officers, and various other branches of county business, which it would be tedious to particularize. The sums to any amount which they may choose to think requisite for these purposes, they of their own authority appoint to be levied on the county, without any control whatever. Their deliberations are conducted with closed doors; the check of publicity is thus entirely removed. The judge of the assizes has merely to see that the usual forms of proceeding are gone through. The right of every cess-payer to call in question in open court the expediency of any of their votes, that certain public works are wanted by the county, and to demand, that the matter shall be tried by a common jury, or to *traverse* a *presentment* as it is called, is, in consequence of the general fear of offending the gentry,* nothing more than a sham security, and, like other sham securities, a screen for abuse. The magistrates without any power of revising their acts, are charged with enforcing payment of the assessment which they have appointed to be levied. The high-sheriff selects the members of the grand jury out of the freeholders of the county at his own discretion, of course chooses them from his own class, that is, from the principal gentlemen.

The opinion of one of these gentlemen is on record, that "he does not know that any other body could be instituted which would be more perfect" (than the grand jury).† Perhaps, after what we have stated respecting the constitution of this body, we might content ourselves with simply asserting the reverse of this proposition: we will, however, appeal to the Parliamentary Reports to decide the question. There we find it confirmed by witness after witness, in almost every other page, that "the abuse of the civil and financial function of a grand juror, has been gross beyond expression."‡

The grand-jurymen, any of whose tenants, or any of whose friends tenants, are in arrear for rent, procure for those tenants a *presentment* (*i. e.* a vote stating the expediency of executing

* *Vide* Evidence of Mr. Macdonnell, Report of Commons, 1825, pp. 765, 766.

† *Vide* Evidence of J. S. Rochfort, esq. a landed proprietor of the county of Carlow, and Queen's County, Report of Commons, 1825, p. 445.

‡ The language of Mr. Justice Day. *Vide* Report of Commons, 1824, p. 242.

some public work, accompanied with a grant of money for the purpose) for making some road or bridge in their neighbourhood, no matter how little wanted such road or bridge, no matter how ignorant of road-making and engineering such tenants may be, provided they are enabled to pay their rent out of the profits of the job. Thus works are undertaken which are not needed, and works which are needed, are badly and expensively executed, that the gentlemen of the grand jury and their friends may get roads made on their estates, and the arrears of their rents paid, out of the county money. The evidence of the thorough dishonesty of these grand juries, notwithstanding the pretext of public service with which they cover themselves, and notwithstanding the secrecy of their proceedings, which tends to exclude direct detection of peculation, is to a remarkable degree strong and abundant. So notorious, indeed, among every class and description of people in Ireland, is the character of their practices, that even the boldest of the country gentlemen, of the supporters of the proprietary right to tax the public, reluctantly confess, upon being very closely questioned, that there are *some* abuses in the system of presentments; such abuses as are quite sufficient to justify the heaviest charges ever made against the grand juries.

Mr. De la Cour, a gentleman resident at Mallow, in the county of Cork, accurately acquainted with the details of the levying and administration of county rates, professes to consider "that the taxation of the county could not be placed in any hands with so much advantage, as in the hands of the grand jury,"* yet declares that, owing to the negligence of the grand juries in not making sufficient investigation into the actual expenditure of county money, he has no hesitation in stating his opinion "that the present mode of accounting for presentments leads to a vast deal of perjury" (on the part of the persons contracting for the works). —p. 560.

Observe also the same gentleman's admission that "a system of favoritism or partiality to the tenantry of grand jurors, or to particular persons, is believed to exist to a certain extent, *and it cannot be denied that it may in some instances operate.*"—p. 566.

Mr. Leslie Foster, being exceedingly anxious not to say any thing to the discredit of grand juries, when asked "whether in the province of Munster presentments are not grossly misapplied?" eagerly corrected the question, answering, "I should hardly say grossly; but I think the province of Munster has a

* *Vide* Report of Commons, 1825, p. 558.

much greater right to complain than the province of Ulster. *I certainly suspect that the entire sums are not always really expended;* I am sure that the works themselves are often so unskilfully laid out, and so ill designed, that it would be better they were not executed at all." *

Again he is asked, whether he has ever heard 'that rents have been eked out and completed by the presentments given to the tenants?' Still unwilling to speak out, he answers, "I should not state the proposition quite so broadly. I think the persons obtaining presentments have been enabled to pay rents they could not otherwise have provided for; and *I have no doubt that their landlords on the grand jury may have aided them in obtaining those presentments*" [p. 65]; which, we take it, amounts to the same thing as the intention of the question stated a little less frankly. And the marquis of Westmeath is asked, "Have you ever been witness to any abuses in the administration of matters by them (the grand juries)?—*I think I may say I have certainly seen what is called jobbing; I am bound to say so; I believe it not to be very uncommon in Ireland.*" †

Here we might safely close the case against the gentlemen of the Irish grand juries, made out as that case is by the admission of members of those bodies, of men anxious to say as little evil, and as much good, of them as possible. Surely the above is testimony of the most unquestionable kind; testimony confirming the charges which it was brought to evade. But, although we have proved all that it is needful to prove, still we cannot leave the subject without entreating our readers to look at the statements of those who know, and are not inclined to conceal what they know of the nature of the proceedings of the grand juries. Refer first, to that candid witness, himself a country gentleman, general Bourke, concerning the "*partiality, private favour, and of the loose and irregular practice among the higher orders in levying public money.*"‡ Secondly, to Mr. Godley, who, although a member, to his credit be it spoken, of the same class, yet does not hesitate to term the grand jury "a body of men who have it in their power to put their hands into other people's pockets, without at the same time considering how far those pockets may be filled, so as to enable the owners to spare any thing out of

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* *Vide* Report of Lords, 1825, p. 65.

† *Vide* Report of Lords, 1824, p. 230; and see also the admissions of W. H. W. Newenham, esq. pp. 306, 307; and of J. M'Carty, esq. p.p 331, 332, Report of Commons, 1824.

‡ *Vide* Report of Lords, 1825, pp. 176, 177, 178.

them;"* a good periphrastical definition of pickpockets. Thirdly, to Mr. Macdonnell, who informs us, that

'He knows works in that county (Mayo) for which money has been granted and paid as for different roads from a market town to the sea; the designation of all new roads must be either from market town to market town, or from a market town to the sea; when, in this instance, the town named consists merely of five or six straggling cabins, and there is no market whatever held in it; *and though two or three distinct lines of roads have been presented for, accounted regularly for, and paid for, by the county, purporting to have been made from this mock market town to the sea, yet there is no appearance of such road having been made.*"†

And the same witness has known instances in which

"*Even domain walls and garden walls have been built with the money granted by presentment.*"‡

So much for the conduct of the Irish country gentlemen in their character of administrators of county finances. This, however, is not the principal article of our charge against that class. We have brought it forward in order that those who cannot, or who will not, look beneath the surface of things, those who consider that all political virtue is included in pecuniary integrity, may see that even to this common merit the provincial aristocracy of Ireland cannot lay claim; that application of public money to private purposes, peculation, simple peculation, is not below the level of their morality.

But Mr. Brownlow has asserted in his place in parliament, that "the Protestant gentlemen of Ireland, in the relations of parents, landlords, and magistrates, have, in every thing, followed the precepts of their religion, by studying the good of all committed to their charge in a manner not to be surpassed by any similar body of men, similarly situated, in the world."§ What the Protestant gentlemen of Ireland have done in the relation of parents, concerns not the present inquiry; but as to their merits in the relations of landlords and magistrates, these we shall take some little pains to canvass.

And first, as to their merits in the relation of landlords. "The landlords of Ireland have studied the good of all committed to their care." This is the text which we have to illustrate. Let us call to our aid a person eminently qualified for

* *Vide* Report of Commons, 1825, p. 741, *et seq.*

† *Vide* Report of Commons, 1825, p. 762.

‡ *Vide* Report of Commons, 1825, p. 523.

§ *Vide* Speech of Mr. Brownlow on the Debate on the Catholic Associations in the House of Commons Feb. 14, 1825. Parliamentary History and Review, Vol. I. p. 81.

the purpose, one who, in his professional capacity, has visited a wide extent of those districts where territorial authority exercises its uncontrolled dominion, and who had every where much intercourse both with the landlords and the peasants; we speak of Mr. Nimmo, the civil engineer.

'The tenantry of Ireland are almost universally from six months to twelve months, and upwards, in arrear (for rent). There is a distinction among them between what are called Irish tenants and English tenants. The former, the Irish tenant, is he who, according to custom, is in arrear, and in debt to the landlord: being in debt, it is, I believe, in the power of the landlord legally to drive his cattle, under the form of a distress, to the pound, by way of making him pay his rent; but this form of distress is applied, not only to the raising of the rent, but to the doing any thing else which the landlord wants. For example: If I want a parcel of people to work for me at eight-pence a day, and they insist on being paid ten-pence, I complain to the landlord that the people are demanding exorbitant wages, and that we cannot go on; we will not pay them those wages: *the landlord, whose interest it is to have the work go on, in order that money may be paid to his tenantry for the purpose of paying his rent, again sends instant notice, that unless they go to the work on the road at eight-pence a day, all their cattle will be driven to the pound.* Now I conceive the object being, not to pay rent, but to do the road, this is an illegal use of this power; and supposing the landlord wished them not to work on the road for me, they would have a like notice for that. *Notice has been sent to a man, that if he went to work on the road, his cattle should be driven the next morning to the pound; consequently he may be made to do any thing the landlord pleases.*

'Q. Have you known several instances of this kind?—*A.* I have known several; I could bring written documents to show this.

'*Q* Has this practice existed to a considerable extent?—*A. I believe it is universal, both in the South and in the West, and that by very humane landlords; I believe it exists from Cape Clear to the Giant's Causeway, but chiefly in Munster and Connaught.*

'*Q.* In what parts of the country has it taken place to your own knowledge?—*A.* I think I could bring proof: one landlord, when in the county of Kerry we were going to build a wall for the Fishery Board, *and without doing any thing as it was thought out of the way, the landlord obliged the people to work, by threat of driving them, at eight-pence a day.* I could bring another instance from the northern part of the county of Mayo, where the same thing was done, I *believe with the very best intention, for I know the gentleman to be a very humane landlord;* and I could bring another instance in the same county, where an instance of making a man not work on the road occurred.

'In the town of Kilkee, in the county of Clare, *when I was passing through it in the time of the distress in the year* 1822, *the people were in a group at the side of the pound, receiving meal in the way of charity,*

*and, at the same time, the pound was choke-full of cattle; of course the milk of those cattle would have been worth something if it could have been obtained.'**

And refer to the evidence of Mr. Macdonnell, where may be seen another use to which the power of distraining is put by the landlords, that of repressing any disposition on the part of the peasantry to resist the excessive imposition of grand jury assessments, by traversing presentments at the assizes. "I think," says that gentleman, "that the peasantry of the country are in general completely at the mercy of their landlords; and it is just a matter of choice with them, whether they will pay five or six shillings, or part with their all and be turned out on the world."†

Here are *corvées* under another name; here we see the landlords, even, as compared with their fellows, "very humane landlords," compelling their tenants to contribute their labour on the roads at under-wages, with as strong coercion as the seigneur can apply to his serf, and this "without doing any thing, as it was thought, out of the way;"—here we see how the property of the peasantry is rendered insecure, how their moral independence is utterly destroyed, how the weak-spirited are reduced to indolent recklessness, and the high-spirited are goaded into insurrection.

But the Irish landlords have not only kept their tenants in the condition of prædial serfs; they have not only held them in corporeal vassalage by the distraining power; they have reduced them by this principally, among other means of intimidation, to an equally miserable moral servitude, in order to secure their votes at county elections, and to make them the tools of their party intrigues. It does not concern our present design to enter upon the question of the disfranchisement of the forty-shilling freeholders, any further than as the evidence relating to it may illustrate the conduct of the Irish aristocracy towards the people whom they rule. In pursuit of this purpose, we request attention to the following extracts from the Parliamentary Reports:—

'I conceive,' says Mr. M'Carthy, a magistrate resident in the county of Cork, '*in several instances a disregard to an oath has been encouraged both by the Irish gentlemen, and, I must say, the Irish clergy of both persuasions,* for electioneering purposes; in several instances, individuals have been brought up to vote as freeholders, who certainly had no freehold.'

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* *Vide* Report of Lords, 1824, pp. 131, 132.
† *Vide* Report of Commons, 1825, pp. 765, 766.

'The Irish tenant, in fact, being occasionally or always in debt to his landlord, is he not kept in order, and maintained in obedience, by the power of distraining existing on the part of the landlord?—*He is universally, I believe.*'*

The right hon. D. Browne is asked,

'Are not, in point of fact, the small freeholders so much under the influence and in the power of the landlords, that they dare not act against them?—*A. I think they are; I think they would be very daring to do so,* because they owe us generally double what they have to pay us; and the landlord has the power of distraining for the running half-year's rent.'†

Mr. Blake, chief remembrancer of Ireland, observes,

'In general they (the lower class of freeholders) pay what is originally a rack-rent for the land; they then build mud huts upon it; and if they make out of the land a profit of forty shillings a year, a profit produced by the sweat of the brow, they reconcile themselves to swear that they have an interest in it to the extent of forty shillings a year, whereas the gain is produced not through an interest in the land, but through their labour.'

The means by which these unfortunate people are made "to reconcile themselves" to swear whatever their masters bid them, we find in Mr. Blake's answer to the next question, in which he states, that upon receivers accounts, which came before him in his official capacity, "he found frequently that a great mass of tenants who were in arrear, in consequence of holding at exorbitant rents, had sworn to forty-shilling freeholds.‡

Mr. Irwin Kelly Sovereign, of Armagh, after having stated that the forty-shilling freehold system

'Demoralizes the people, leading to affidavits which they do not feel themselves qualified to take, meaning that the persons do not feel themselves thoroughly convinced that they can, with a clear conscience, take that oath, inasmuch as the freehold they possess is not worth the sum they swear to,'

is then asked,

'What induces them to take that oath when they are under that impression?'

His answer is,

"*Frequently the solicitation of the proprietor of the ground or his agent.*"§

* See Report of Lords, 1824, pp. 213, 218.
† See Report of Commons, 1825, p. 32.
‡ See Report of Commons, 1825, p. 43.
§ See Report of Lords, 1825, p. 492.

Dr. O'Brien, parish priest of Doneraile states, that

'The lower class of people, as far as he was acquainted with the county of Cork, set very little estimation on that franchise (the elective); *they consider themselves as the slaves of their landlords; they consider they have no free will, and on occasions of elections, I have myself witnessed the tears of these poor creatures, going to the county town to give their vote against what they called their consciences; meaning by that, that they were going to vote for persons who were hostile to Catholic emancipation, bnt who were in the interests of their landlords. I have known perjury to have been multiplied on these occasions;* I have known numbers of my own parishioners, when called on to register their votes, to apply to myself for advice. They have laid their situation before me, and then said, 'What shall I do, sir? my landlord calls upon me to register my vote: see my situation; I have such a family; I pay so much for my unfortunate farm; and he says I have an interest of forty-shillings; I do not think I have; and how am I to act?'*

Subornation of perjury;—say rather, compulsion of perjury;—and that applied to half the population;—truly the character of the Irish country gentlemen opens before us in brilliant colours.

We will not inquire at present whether the process of distraining is necessary to secure the due payment of rent; whether legislative enactments might not be devised to limit the use of this enormous power to its original purposes, and to prevent its application as an instrument of enslaving every peasant to the will of his lord; whether, if this be not possible, it would not be expedient to abolish altogether a power allowed to landlords, already much greater than the power allowed to other classes of creditors, rather than to sacrifice the security of the agricultural population to their eagerness to realize an amount of rent which the improvident indigence of that population at once induces them to offer and disables them from discharging. We merely desire to call men's attention to the indications which the foregoing evidence affords of *their* character, whose conduct towards their tenants has been such as that evidence proves it to have been, and who have notwithstanding had the audacity to assert, or to allow others to assert in their name, that they have, "in the

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* *Vide seq.* Report of Commons, 1825, p. 588. And for the perjury caused by the landlords to serve their electioneering purposes, see further evidence of Col. Currey, pp. 303, 304; of the rev. H. Cooke, p. 372; of the rev. T. Costello, p. 416; of J. S. Rochfort, esq. pp. 435, 436; of Mr. Barrington, pp. 577, 578; Report of Commons, 1825; of Mr. Leslie Foster, p. 78; Mr. Justice Day, p. 534; and of Dom. Browne, esq. pp. 586, 587; Report of Lords, 1825.

relation of landlords, studied the good of all committed to their charge."

But the principal plea in favour of residence, that it would relieve the peasantry from the severe oppression of the middle-men, is, in reality, no objection at all to what we have adduced. This argument, even if we admitted its validity, proves not that the proprietors are in themselves just, humane, and considerate towards their tenants, but only that they are less iniquitous, less cruel, less regardless of their feelings than another class of men,—a class whom the maintainers of the argument are forward to stigmatize as the most intolerable scourges of the peasantry. Those who can urge against the main column of our reasoning nothing stronger than this objection, already abandon the better half of their original position, and merely maintain that the residence of the gentry, although it should be proved to be productive of enormous evils to the agricultural population, saves them from evils still greater at the hands of agents and middle-men. The power, then, which is committed into the hands of the landlords and of the landlords' substitutes, being, as far as regards legal responsibility, nearly equal, the only problem which remains, is, to determine the probability that the extra-legal or moral restraints on the abuse of power on the part of the former, will be stronger or not, than those applying to the conduct of the latter.

After all, it is a question of exceedingly little practical importance. It is nothing more or less than this: Of two classes of persons, both extremely ill qualified to exercise the functions of rulers over the peasantry, to find out the minute shade by which one is less qualified than the other, when the solution of the question would not have the slightest effect in substituting the more qualified for the less qualified class. If it were clear to demonstration that middle-men and land-agents were the mildest and most benevolent of human beings, this would not prevent the landlords, upon the slightest suggestion of interest or convenience, from returning to their estates, and resuming the whole of the territorial power; as, on the other hand, although the latter believe that their presence would be extremely beneficial to their tenantry, mere pleasure-seeking and dissipation are sufficient to make absentees of almost all of them, until their embarrassments compel them to return to the country.

But even upon this limited view we have great doubts whether reasonable anticipation, or the experience of the conduct of actually resident landlords, warrants the conclusion, that the residence of those who are now absentees would make any

change for the better, in the administration of agents and middle-men.

For the solution of these doubts, we have now neither space nor inclination, but to the consideration of those who may think it worth while to pursue still further the comparison between the moral qualifications of middle-men and of landlords, we recommend the following questions:

Whether, if a middle-man or an agent be rigorous in exacting renewal fines and rack-rents, an embarrassed landlord will not be equally so? and in this predicament how many are to be found, we have already seen.* Whether by the public opinion, to which it is common to assert, that gentlemen are more amenable than men of inferior rank, be not meant the opinion of the class of gentlemen; and, if so, whether from the evidence hereinafter adduced, conduct favourable to the interests of this class, how much soever it may be to the peasantry pregnant with injustice, is likely to be visited with any severe measure of reprobation? Finally, whether middlemen and agents are saturated to the same degree as the landlords, with the feelings of aristocratic haughtiness, political jealousy, and sectarian animosity, towards the subjects of their sway?

II. Let us now proceed to the second general division of the reasons alleged for expecting beneficial results from the residence of the Irish landlords, viz. that by their presence in the capacity of magistrates, they would protect the people, as occupiers of land, from the rapacity of the different sets of claimants for rent, tithe, and assessments, and generally from the domineering spirit of all persons having any sort of power over the peasants;—that they would quickly falsify the now too-well-founded assertion, that in "Ireland there is one law for the rich, and another for the poor."

In order to effect this object, so much at heart with every friend of humanity, the highest judicial qualifications would be peculiarly requisite. The most complete personal integrity, an extreme vigilance against any indirect seducing influence, and a thorough disregard of the ill-will of those who profit by abuse of power, would, without the assistance of a better code of laws, but just enable them to fulfil the duties of the magisterial office.

Now, what is the probability that such, and so admirable, will

* For additional confirmation of the embarrassed state of the affairs of the greater part of the resident Irish gentry, see the evidence quoted on the subject in the article "Ireland," in No. XIII., and in the article "Emigration," in No. XII. Further proof of the same fact may be found in the evidence taken before the Irish Committee in 1823: the committee allude to it in their Report, p. 7.

be their qualifications as magistrates—first, from reasoning antecedent to experience; or, secondly, from the experience which we have of the conduct of those who are already resident?

First—Antecedently, we must anticipate their conduct from the circumstances in which they are placed. What, as relating to the question in hand, are these circumstances? Such as confer upon them the most absolute power over the peasantry, with few of the usual checks, and with more than the usual incitements to the abuse of that power. Power, like that exercised by a territorial lord over his peasantry subsisting under a state of law such as in Ireland, is in other situations difficult to be met with. Absolute authority in its most undisguised form, when exercised over towns, is nothing in comparison with it. Authority, in the utmost legal completeness, is in towns checked by the force of combined opinion, however tacit and suppressed, and by the fear of the resistance of congregated numbers, however slight and remote. But upon the sway of the territorial lord there is no such check. Removed by his rank from all participation in the interests, and from all sympathy with the sufferings of his peasants; removed by his overwhelming power, both as a magistrate and a landlord, from all fear of effectual resistance, from a scattered and uncombined population; removed by his provincial situation from the immediate apprehension of the instructed, that is, the only potent portion of public opinion;—to the power of such a man limits scarcely exist.

Submissiveness, even to the point of abject servility, with all the abasement of moral independence therewith connected, will be but a small part of those demands which the experience of human nature tells us to expect that such a man will make on his vassals. The appropriation to his own use of the whole produce of their labour, beyond the bare allowance absolutely necessary to support their existence and continue their race, he will indubitably endeavour to effect. He will do this, if other circumstances favour his design, by making them actually his prædial slaves. But if the outward form and name of slavery, be repugnant to the opinions of an influential middle class, he will still make them slaves in ultimate and real effect; as the landlords have done in England, by warping the power which the poor laws put into their hands, and establishing the system of allowances; as they have done in Ireland, by causing their tenants to be constantly in arrear for rent. Further, when all the motives to act injuriously towards the peasantry as a class have been recounted, we have still to add those arising from personal interest, pride,

or partiality in the administration of justice between man and man, and then we have completed the moral picture of what the feudal baron was, of what the Irish magistrate actually is.

Let not this comparison of the apparently polite and civilized modern gentleman, and the barbarous chieftain of the middle ages, be thought extravagant. The moral character of a class is determined solely by the moral circumstances with which that class is surrounded, and not by the name or the external manners of the age in which it may chance to exist. Not so widely different in all the essential characteristics of their respective situations as in the name and title, are the feudal baron and the Irish gentleman. Not much less complete in legal extent, certainly very little less complete, in the absence of real responsibility, is the power conferred by the commission of the peace, than that of the seignoral jurisdiction. Not less efficient in exacting services of all descriptions from the peasantry, but in many respects far more profitable than legal villainage, is the contrivance of the "hanging gale"* of rent. Not less effectual, and far less cumbrous instruments of power than feudal retainers, are dependent constables, supported, in case of need, by armed policemen and disciplined troops. In some respects the rule of the former was even preferable to that of the latter. For at all events the feudal nobles had commonly the same national feeling, and the same religious creed as their vassals. The Irish country gentlemen, taken generally, have neither. The contrast of the consequences is obvious. And if the voice of public opinion, even now but too weak, was in the middle ages almost powerless; if mere wanton ferocity was, in some instances, more unrestrained, yet the spirit of clanship sometimes stood in the place of law between the lord and his vassal; while, in modern Ireland, the relation between the gentry and the peasantry, is that between foreigners and natives, between conquerors and conquered, between members of an established and members of a sectarian church.

But we shall be told that we do wrong to the Irish country gentlemen, by antecedent reasoning. Come we, then, secondly, to actual experience.

We begin with the administration of justice by the Irish magistrates in tithe cases. A tax in kind is notoriously, of all others, the tax which is paid with the most reluctance. A tax varying in amount in each succeeding year, according to a variable standard, viz. the productiveness of a harvest; which is left, in a great measure, to the discretion

* The Irish term for the running arrears.

of the tax-collector to estimate; a tax, moreover, paid by one religious sect to support the priests of another, must inevitably produce the strongest tendency to exaction on the part of the claimants, the strongest feeling of irritation on the part of the payers; it would, in short, be in the highest conceivable degree fertile in the matter of contention. Such, in every single respect, is the tithe in Ireland. Now, if in the numberless disputes arising from this source, the magistrates have exhibited an anxious desire to repress vexatious proceedings on the part of the tithe-owner; if between the rich claimants and the poor payers of the tax, they have arbitrated without any bias towards the former, we would willingly admit this to be a strong presumption in favour of the really patriarchal exercise of their authority. Proportionally decisive against it, would be the evidence that they side with the former against the latter,—against those who most need the protection of the law. Such, however, is the state of the fact.

"When a peasant is to be worried out of exorbitant tithes" (the expression of Mr. Macdonnell [*loc. cit. infra*]), the tithe-owner procures two magistrates (two magistrates are necessary to the exercise of jurisdiction in tithe cases) to summon that peasant to appear before them at the distance of several miles, sometimes as many as twenty or thirty from his place of residence; and then, when the man has travelled this long journey, the two magistrates adjourn the court, or they do not attend at all, and this is repeated, perhaps, two or three times.*

Refer also to the conduct of the magistrates in the notorious case of the Rev. Mr. Morritt, of Skibbereen, where the oppressive mode of enforcing the tithe claims of that one clergyman adopted by them was upon the point of raising disturbances in a whole district, and did actually cause an affray in which lives were lost.† Remark what Mr. O'Driscol states respecting the transaction, "*that this is not to be taken as a solitary instance, because it (the oppressive method of collection) was previously the habit of that part of the country*, and I understand it has been practised since."‡

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* *Vide* Evidence of Mr. Macdonnell, Report of Commons, 1825, p. 760, and of Mr. O'Connell, Report of Lords, 1825, p. 131.

† *Vide* Evidence of Mr. Maxwell Blacker, one of the king's counsel, appointed to administer the Insurrection Act during the disturbances in the south of Ireland. Report of Commons, 1824, pp. 60, 61: of lord Carbery, Report of Commons, 1825, p. 603, and of Mr. O'Driscol, *loc. cit. infrà.*

‡ *Vide* Report of Lords, 1824, p. 233. We are not unaware that the Tithe Composition Act is now operating, to obviate the exaction previously

Let us go on to inquire how the magisterial office is performed in other branches of its duties.

'Committing persons to gaol upon charges of felony,' says Mr. O'Connell, 'to lie there until the ensuing assizes, sometimes three, four, five, and six months, and sometimes seven;' when 'the utmost the charge could be was a civil trespass, or some light misdemeanour,' was (before the establishment of Petty Sessions)* 'a thing of by no means unfrequent occurrence.' The magistrates 'were also in the habit of turning almost all cases, with respect to civil rights, into criminal offences,† and beginning by inflicting punishment, that is, imprisonment, *by sending an individual, who frequently was least in favour—for it came to that—to gaol.*'‡

The following extract is from the evidence of Mr. O'Driscol, resident in the county of Cork.

'*Q.* Have abuses existed in the part of the country you are acquainted with, to any extent on the part of the magistrates?—*A. There have been several in that part of the country who were of the class of trading magistrates, as they have been called.*

'*Q.* What is the meaning of that expression, trading magistrates?—*A. They are magistrates who are understood to sell justice; who administer justice favourably to the party who pays them best, or rather to administer injustice.*

'*Q.* Which is a matter notorious in the country?—*A.* It is perfectly notorious.

'*Q.* In what way? what were the particular practices which acquired this character to these magistrates?—*A.* When any case is brought for a decision before a magistrate of that sort, *it is understood that parties go beforehand to the magistrate, and tell their story, and offer their bribe; and there have also been magistrates who have certain parties and clans in the county whom they support upon various occasions, whether they be right or wrong.* Some of those (clans) fight at the fairs, in what they call parties or factions, and who often commit great enormities, relying upon the strength of their party.

'*Q.* Are the people in the habit of giving those magistrates presents?—*A.* Yes; those people give presents, and perform various services.

'*Q.* What sort of services do you mean, cutting their turf, or digging potatoes for them without payment?—*A.* Yes.§

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attendant on the collection of the Tithe. The question here does not regard the character of the law of Tithe itself, but only the conduct of the magistracy in the administration of that law.

* Whether these abuses ceased after the establishment of Petty Sessions —*Vide post.*

† *Vide post.*

‡ Report of Lords, 1825, p. 130. A detailed instance of this practice, in which the judge who tried the case expressed a very strong opinion upon it, is given by Mr. Macdonnel; Report of Commons, 1825, p. 754.

§ *Vide* Report of Commons, 1824, p. 383.

The Rev. M. Collins, parish priest of Skibbereen, in the county of Cork,* states,

'I have known magistrates who had no other visible means of support but the trade they carried on as magistrates, receiving presents to a large amount, having their work done, presents of potatoes, corn, and cattle, and presents of money too.'†

But the worst of the malpractices of the Irish magistrates remain still to be exposed. The denial of justice to the poor man against the rich‡ is more injurious than even the sale of justice as between one poor man and another. Both the motive and the power are much greater in the rich to wrong the poor, than in the poor to wrong one another; and the restraint of the law upon the actions of the former is by consequence so much the more necessary. But these magistrates constantly refuse to interfere between a gentleman and the peasants in his neighbourhood, and thus deliver over the latter without any appeal into the hands of the very persons who have the strongest temptations to abuse their power.

Q. 'Is there any delicacy on the part of magistrates, in interfering with respect to complaints made by the tenants of other gentlemen against their landlords?—*A.* Yes. I do not know whether that has been diminished since the institution of the petty sessions [*Vide infra*] because, I take it, they now think it compulsory upon them to listen to complaints; but before the institution of petty sessions, *that sort of etiquette existed; a man applying for justice was often obliged to shift about in vain from one magistrate to another.*

Q. 'It was thought an unneighbourly and unkind thing?—*A. Yes, and a breach of gentlemanly conduct, to take informations where gentlemen were concerned.'*§

A breach of "delicacy," "etiquette," an "unneighbourly and unkind thing," "a breach of gentlemanly conduct," mark the

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* *Vide* same Report, p. 336.

† For further proof of the extent of the practice of selling justice, *vide* Evidence of major Wilcocks, p. 109, same Report: of the rev. T. Costello, p. 417, Report of Commons, 1825: of col. Irwin, p. 706, Report of Commons, 1825.

‡ It has been already remarked, in an article in a former Number of this work, that the terms "rich" and "poor" do not include all the classes which they are intended to divide in the logical sense. It was there suggested that "rich" and "not-rich" might be substituted with advantage. In any discussion connected with Ireland, "poor," and "not-poor," would consult the purposes of the distinction still better. The established use of the language obliges us to continue to employ the words "rich" and "poor," but we shall do so in the latter sense.

§ *Vide* Evidence of Rev. M. Collins, parish priest of Skibbereen, in the county of Cork, Report of Commons, 1824, p. 335.

terms which have been applied—to what? to injustice? to rapacity? to bad faith? No; but to granting protection to the peasant against injustice.

Again—Mr. Becher states, that, before the establishment of petty sessions,

'There were a sort of petty gentry who employed servants in their houses, and *used never to pay them, and they thought it a most atrocious outrage of any magistrate to summon them to answer to such complaint.*'*

Surely here is illustration enough of what some persons find, or pretend to find, so much difficulty in understanding,—that not only does not the code of morality in force among a privileged class enjoin upright dealing towards the classes below them, that not only does not "gentlemanly conduct" include or presuppose probity or humanity towards those who are not gentlemen, but that it may, as in the present instance, be the term of praise applied by the former to acts which would deprive the latter of all hope of redressing their wrongs.

But have we not proofs more strong, even, than the proofs, strong as they are, which we have hitherto established, of the dreadful extent of the oppression exercised by the Irish magistracy upon the lower classes of the people? Have we not evidence more unquestionable than the authority of any individual witnesses can make it? Have we not proofs, independant of the support of any particular cases? Can we not show the general despair among the people of being protected by the laws, and their ever-lively consciousness of the proximity of uncontrollable power? Can we not point out the infallible signs, the every-day and every-where visible marks which these feelings stamp upon their habits of thinking, and their habits of acting?

Of the fear with which they regard the arbitrary authority of the gentry, as evidenced by that, in all countries the same plain mark of an oppressed race, personal servility to the ruling few; of their apprehension of judicial iniquity, as proved by their reliance on bribed favour, rather than on the justice of their cause, behold some examples:—

'*Q.* Have you ever observed them (the Irish peasantry) go upon their knees, in order to return thanks for a favour?—*A.* Both to supplicate a favour, and to thank you for it afterwards; I have checked them often in those things.'†

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* *Vide* Report of Lords, 1824, p. 139.

† *Vide* Evidence of col. Currey, Report of Commons, 1825, p. 301.

'*Q.* You said you observed something cringing in their manner occasionally towards Protestants?—*A.* I have observed it.'

'*Q.* Do you conceive that that submissiveness (on the part of the lower classes) of which you have spoken, arises rather from the fear of superior power than from a proper sense of respect towards persons of higher rank and better education?—*A.* I think it is carried beyond proper respect; that it is more than is justified. *I think that they have been unused to fair dealing from the upper orders, and that if they get it, they are astonished and gratified beyond measure.*'*

See the Greek in the presence of the Turk; see the negro in presence of the European; see the Irish peasant in presence of the Irish gentleman: you want no more than his outward bearing, to tell you that you see a slave in the presence of his master.

The Rev. M. Collins, parish priest of Skibbereen, states, as among the immediate causes of the disturbances, "*the impression upon the minds of the common people, that there was no law for them but the will of the magistrates.*†

The Rev. J. Reily, parish priest of Mitchelstown, in the county of Cork, after saying "that 'a word in this court is better than a pound in the purse,' is a phrase almost in every person's mouth in the county whence I came," is asked,

'What circumstances induced them to entertain those opinions? —*A. A general feeling that might was more powerful than law and right in Ireland.*‡

Mr. O'Connell states, that

'The lower class of the people conceive *that it is not the justice of the case that is to decide it before the magistrates, but the person who has most favour and interest;* and the moment they have any thing to be decided before magistrates, they ransack the entire neighbourhood to get letters of recommendation to the magistrates.'§

Mr. Becher is asked—

'You have stated that the peasantry in general are discontented and dissatisfied with the laws; what, in your opinion, is the cause of this indisposition to the laws?—*A. I think they never thought the law was a fair rule of conduct for all ranks, equally, the upper and lower.*'‖

The fact established in the preceding extracts, viz. that it is the universal opinion of the Irish peasantry, that "there is no

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* *Vide* Evidence of W. W. Becher, esq. Report of Commons, 1824, p. 185.

† *Vide* Report of Commons, 1824, p. 337.

‡ *Vide* Report of Commons, 1825, p. 397.

§ *Vide* Report of Commons, 1825, p. 61.

‖ *Vide* Report of Commons, 1824, p. 183.

law for them but the will of the magistrates," is one of incalculable importance. Nothing can have produced this universal opinion, an opinion so strong as to show itself in the habitual conduct of the people, but long and constant experience; none are so well able to ascertain the just grounds of that opinion as they are. Common uninstructed opinion, call it prejudice, if you will, is, in this matter, as sure a guide to the truth as reason and reflection. Suppose every peasant to think well or ill of the magistracy, only as he has gained or lost a cause before them. Now, the cases in which the rights of the poor are invaded by the rich, must naturally be more numerous than those in which the reverse obtains. Allowed, therefore (upon the assumption that justice were really well administered), that in every case in which a magistrate decided against him, and in favour of the gentleman, the peasant were to entertain an ill opinion of the integrity of that magistrate, not only would not this opinion be the general one, but it would be greatly overbalanced by the contrary—by the feeling of gratitude for protection and security.

Our argument briefly recapitulated is this, that the adages and common sayings current among the people, are good evidence of their opinion of the administration of justice, and that this opinion is decisive of the character of the magistrates.

It is not slightly instructive, to observe how soon the people learn to distinguish between their real protectors, and those whom political cant has styled their "natural protectors;" with what practical sagacity they discover where impartial justice is administered, and with what affection and respect they regard it when found.

Major Warburton, speaking of the time during which he was (stipendiary) chief magistrate of the county of Clare, one of the disturbed counties, states,

'While I was at Kilrush, I appointed three days in each week to hear complaints; and I assure the Committee, that sometimes the people would stay in my office till ten o'clock, and were obliged to come again in the morning. I have had hundreds; in fact, my office appeared almost like a quarter sessions, people attended in such numbers.

'*Q.* Did they not come frequently from great distances, for the purpose of getting law and justice?—*A.* I have known people come as far as thirty miles.

'*Q.* Have you known them to pass the local magistrates in order to come to you?—*A.* I have known them pass several.'*

* *Vide* Report of Commons, 1824, p. 156.

'In the course of my experience,' says Mr. O'Connell, 'I never knew a complaint of an officer in the army who was a magistrate; on the contrary, the peasants would infinitely prefer going to him rather than to several other magistrates, so far as I have seen.'*

But we shall hear, as a bar to receiving this evidence of the character of the Irish gentry, that the magistrates have ceased to distribute "hall-door justice;"† that the government have, through the channel of the judges at the different assizes, three years since, "recommended" (the word used to avoid any insinuation of a doubt of the purity of an unsalaried magistracy) not to act individually, but in meetings of three or four, termed Petty Sessions; and that the recommendation having been generally acted upon, is likely to lead to a complete reform in the administration of justice. We have marked the eager endeavour to obtain opinions to this effect in the tenor of the questions asked in the Committees, and the perfect readiness of the country gentlemen examined to offer them.

Now, it may be probable that an improvement of one sort will result from the adoption of this plan. Personal caprice and pecuniary corruption will be held somewhat in check where the advantage is to one, and the discredit may be to all. So far as there is no community of sinister interest, each magistrate would be curbed by the presence of his fellow magistrates.

But widely different is the probability in those cases,—a large proportion of all that would need to be brought before them,—in which the matter of complaint is between the peasant and the gentleman. In such cases it is impossible to doubt that as long as gentlemen-magistrates are not really responsible, the rights of the former will be sacrificed to the interests of the latter.

They are responsible, we shall be told, to public opinion. But what public is there whose opinion shall control them? of whose censure will they stand in awe? Not, surely, of each other, united as they are by a community of interests and feelings, every one equally standing in need of the other's forbearance, and, above all things, anxious to repress the spirit of investigation. Not, surely, of the peasantry, to whose good or whose ill opinion their rank and power render them indifferent. Not of the public resident in towns, because, unhappily, without the intervention of judicial investigation, their opinion has not, in the majority of instances, evidence sufficiently accurate to

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* Same Report, p. 156.

† The expression of the marquis of Westmeath. *Vide* Report of Lords, 1824, p. 231.

proceed upon, and where direct evidence of corruption is wanting, plausible pretexts are always abundant.

In short, we have seen, in the case of magistrates acting singly, that the victims of their arbitrary rule (legal redress being out of the question) have had no means of making their grievances heard in the great centres of public intelligence:—we have seen the same in the case of pairs of magistrates in tithe jurisdiction; and shall we be mocked by being told to expect a different result when magistrates sit in bodies of three or four?

We have no space for further extracts; but those who wish to know more about Petty Sessions, we refer to the evidence of Mr. Macdonnell, Report of Commons, 1825, p. 753, *et seq.*, where they will learn what still *can* be done by magistrates in petty sessions; where they will learn what alone is quite sufficient to bear out all that we have said—that "that system of the magistrates not interfering with one another, is carried even to the petty sessions."

It may be perceived, from the perusal of the Minutes of Evidence, that some of the members of the Committees, in their questions, and some of the witnesses, especially the country gentlemen, in their answers, endeavoured to make out that the greatest part and the worst of the magisterial iniquities, which it was impossible either to deny or to palliate, were to be charged to men of "no property." It was thus intended, by throwing the principal imputation of judicial corruption on men of "no property," to prove, by implication, that "good property," or "a stake in the country," is a sufficient guarantee for the upright conduct of magistrates. This device deserves a moment's examination.

It may be, and we are inclined to believe it is, true, that the most gross and open instances of selling justice have been seen in men of inferior rank. The value of bribes would be of more importance to a man of small property, than to a man of large property. The taking bribes is a tangible delinquency, and dangerously obvious to proof, and many would hesitate at this, who would hesitate at no other sort of malversation. Let the argument go for as much as it is worth. But, be it remarked, that the magistrates of "no property" have not been asked to tell their story, otherwise we might hear a little more of the occasions on which the magistrates of "good property" had thought proper to put their discretion above the law. After all, the distinction between magistrates "of no property" and magistrates of "good property," between "petty gentry" and "superior gentry,"

is very difficult to draw; the charges brought against the magistracy by the various witnesses seem pretty general, and, with exceptions in favour of individuals, to include nearly all who compose in Ireland the *noblesse de campagne.* The gentlemen of "good property" have not separated themselves from the magistrates of "no property;" they have not come publicly forward to denounce their iniquitous proceedings, and to disavow connection with them. We have heard of no separation between these two classes, until the former became desirous to lay the blame of their common abuse of power on the latter alone. On the contrary, whenever the general administration of justice in Ireland has been called in question, in society, or in the legislature, the gentlemen of "good property" have constantly showed themselves its forward defenders and its zealous eulogizers, thus identifiying themselves with the worst acts of the worst ministers of the system.

But, above all, upon that which is the heaviest charge against the Irish magistracy, upon that which in itself includes every other, upon that which arraigns them as accessories to every species of oppression,—the denial of justice to the peasant against the gentleman,—we can find no reason for holding the magistrates of "good property" less deeply guilty than the rest. In the cases included under this article, the injurious conduct is negative, and for all negative injustice the pretexts are always more numerous, and more ready at hand than for positive violations of right. Upon a magistrate who, on any vague cause, assigned, refuses to entertain the complaint of the poor man against the gentleman in the first instance, it is very difficult to fix the direct imputation of corrupt partiality, for he has given no actual misdecision, and the individual complainants and defendants are perhaps alike unknown to him. At worst, indolence is the excuse —always easy to be forged by the magistrate, and passed by his friends. The corrupt state of his affections, as a member of a particular class, it would require a court of justice to expose; that is, it would require an ordeal to which, in the present state of the law, it is certain never to be subjected. All this we should conclude antecedently. How is this conclusion confirmed by evidence of the facts? We find it stated in the Parliamentary Reports, that if a peasant had to make a complaint against his landlord, or any gentleman in his neighbourhood—"in general the application was made first to the magistrate nearest, and then to one more remote; the nearer magistrate would probably not interfere, because he

would assign some pretext; the remote magistrate would not interfere, because the nearer did not."* And the following extract from the evidence of Mr. O'Connell, brings curious confirmation (confirmation the more strong, inasmuch as it is deduced from testimony given with a directly opposite purpose), to the conclusion, that even the magistrates who are personally free from corruption, will not make the smallest exertion to protect the peasantry from the iniquity of other magistrates.

'Q. Is there any feeling among the magistrates in Ireland not to act out of their own immediate neighbourhood?—*A.* There is a delicacy upon that subject, which influences just the very best class of magistrates, the men who ought most to be looked up to.'†

Mr. O'Connell intended that this conduct should contrast favourably with that of some magistrates who had acted out of their own neighbourhood with a view to harass a peasant in a tithe case. But his evidence is two-edged: the worst magistrates *will* act out of their own neighbourhood with a design to oppress the peasantry, and the best magistrates, when it is a question of protecting them, will *not*. "Delicacy!" too, the thorough baseness of looking on without energetic interference upon acts of injustice, is called, it appears, in Ireland, "delicacy;" it is delicacy of that refined kind, that it only "influences just the very best class of magistrates," those who are not, like the majority, active oppressors on their own account. Such is the state of society, where the moral sanction is constituted solely by the ruling class;—of such and so great value as a guarantee for magisterial integrity is "the character and station of a gentleman."

But what need is there to take the pains of exposing at greater length this futile defence? What, after all, would the proof amount to, even if proof were established, that the superior gentry had had no personal share in the iniquities of the inferior magistrates? Is the character of the landed aristocracy, therefore, more benignant? Does their domination weigh one whit less heavily on the people? Has any tyrant, or set of tyrants, since the beginning of the world, inflicted on their fellow-men, personally, and with their own hands, all the evils of which they have been the causes? The finger of the conqueror does not point out the spoil of the province which his soldiers are plundering; his hand does not apply the firebrand to the towns

* *Vide* Evidence of Rev. M. Collins, Report of Commons, 1824, p. 337.
† *Vide* Report of Lords, 1825, p. 131.

which they are burning: is a conqueror, therefore, less an enemy to the security of society? The oriental governor does not himself rob the peasants, whose subsistence is carried off by his agents, for the support of his court and his troops; is he less, therefore, the destroyer of industry? The priests of established religions are not used to enact with their own votes the laws which injure the reputation, curtail the rights, and afflict the persons, of those who dissent from their doctrines. But because they persecute, by means of interest-led rulers and superstition-led partizans, are they, therefore, less to be accounted the worst obstacles to the progress of truth? If not, shall the aristocracy of Ireland be held innocent of the crimes of those who receive power from them, and who hold it by no other tenure than their will and pleasure? Shall they be held absolved from the enormous guilt of being the supporters and the defenders of a system of government, for the amount of suffering which it has inflicted on the governed, unparalleled in this age, unsurpassed in any other. Shall they be permitted to escape with impunity, by diverting the public indignation upon the inferior agents and mean instruments of that system which is, such as it is, solely for their profit? But, alas, there are few in Ireland at present who dare to answer these questions in such language as shall defy the fashionable retort of "vulgar clamour." But the time may come when the answer shall be sent forth from every corner of Ireland, in a tone which will silence with fear, if it does not with shame, those sickening self-eulogies, now so often re-echoed by the applauses of a certain assembly.

After having painfully laboured through all the mass of evidence which, in melancholy uniformity, illustrates the demoralizing influence of the provincial aristocracy of Ireland upon the population, we should be now in a situation to bring forward against them our last and crowning charge—that by constant and heavy oppression on their vassals; by that insolence and goading irritation which make oppression still more intolerable; by making the laws not the safeguards of the rights of the many, but the instruments of their own savage domination; they have driven a whole people, by wrongs which the unhappy sufferers despaired of redressing by other means, into secret conspiracy, or actual insurrection, against the civil authority; —that they have rendered the scene of their rule, a scene of a servile war, such as has not been witnessed since the ages of utter barbarism. To exhibit this as a clear consequence of their tyrannical government, much less evidence than we have adduced might have sufficed; and if it had not, much more is

ready at hand; but we are already aware that we are exceeding the limits of our allotted space.*

We cannot, however, omit to extract the following passages, which, we rather think, surprised the members of the Committee not a little, and may, perhaps, have the same effect upon others who have not met with them before.

Mr. Blackburne, the king's counsel, appointed to administer the Insurrection Act in the county of Limerick, and part of Clare, during the disturbances, is asked,

'Are you acquainted with the condition of the barony of Owneybeg, which is in comparative tranquillity, and the barony of Kerry, which you still consider to require the Insurrection Act, with respect to the resident gentry in the one and the other?—*A.* I believe there are very few resident gentry at Owneybeg, but I believe there are a great many in Kerry.'†

Mr. Blacker, appointed to administer the Insurrection Act in the counties of Cork and Tipperary, is asked,

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* We believe that it is admitted, and even taken as matter for national glorification, that the advantages which it is alleged that peasants derive from the near neighbourhood of their lords, is most anomalously confined to the British islands, and that in other countries the congress of the weak and the strong is not usually attended with any peculiar advantage to the former.

But although this admission saves us from the trouble of going into proof, yet, if only for curiosity's sake, it would be worth while to read the following extracts from a collection of letters, published in 1789, entitled, "Correspondance Politique et Anecdotique sur les Affaires de l'Europe, et particulièrement sur celles de l'Allemagne depuis 1780 jusqu' à présent."

"*De Vienne,* le 20 *Nov.* 1784.

"Les nouvelles que nous recevons de la Transylvanie du Bannat de Temesvar, et surtout du comitat d'Arod, sont très affligeantes; le nombre des revoltés s'augmente journellement, et il s'y trouve beaucoup de Valaques; ils ont mis le feu à plus de vingt villages, et ils exercent des cruautés affreuses contre les propriétaires de terres, leurs femmes et leurs enfans. *Ce sont les vexations de ces propriétaires qui les ont portés à ces coupables excès:* on fait marcher quelques régimens pour les réduire."—Tom. iii. p. 79.

"*De Vienne,* 1 *Dec.* 1784.

"La fermentation est pourtant encore telle que l'on ne peut attendre que du tems et des mesures le plus sagement combinées le rétablissement de la tranquillité. *Tant que l'autorité suprême n'empechera pas les seigneurs, et mêmes les simples gentilshommes, de traiter leurs vassaux avec une dureté sans exemple, de les accabler de corvées, de ravir de la bouche de leurs enfans une nourriture arrosée de leur sueur, baignée de leur larmes, on ne peut attendre que de nouveaux actes de désespoir de la part de ces coupables, mais infortunés sujets.*"—p. 88, 89.

Change the dates and the proper names, and who would not think that he was reading the account of the disturbances in Ireland?

† *Vide* Commons Report, 1824, p. 17.

'Are there more resident gentry in Cork than in Tipperary?—*A.* That is no clue at all to trace the disturbances, for the disturbances in Cork prevailed in the part that is most thickly inhabited by gentlemen; I judge of that by the number of magistrates I had attending at Mallow; it extended from thence to Limerick, and it raged about Doneraile and Mallow, and yet that part, I conceive, is as thickly inhabited with gentry as any other part.

'*Q.* Was not the part of the county of Cork that was the least inhabited by gentry the quietest?—*A.* I conceive that the Western part has been quite tranquil.

'*Q.* Did you ever see any part of Ireland in which there was a more numerous gentry than immediately about Doneraile and the disturbed parts in that neighbourhood?—*A.* No.*

Major Warburton, one of the inspectors of constables under the Constabulary Act, and previous to being appointed to that situation, chief magistrate in the county of Clare, gives the following evidence:—

'*Q.* Are there many gentlemen resident in the baronies of Tullagh or Bunratty?—*A.* The residence of the gentlemen in those baronies is more numerous than in other parts of the county.

'*Q.* Which of the two is most disturbed, the Western baronies, in which there are few resident gentry, or Tullagh or Bunratty, in which there are many?—*A.* The most disturbed parts of Clare, latterly, has been Tullagh and Bunratty.'†

'*Q.* Are there any resident gentry in the barony of Ibrickin?—*A.* Very few indeed.

'*Q.* Has not that barony been completely undisturbed?—*A.* That barony has been quiet since I went to the county, except immediately in 1816.

'*Q.* Was not the part of the barony that was then disturbed the very part where the few resident gentry resided?—*A.* It was.

'*Q.* And the other parts of the barony remained undisturbed?—*A.* Yes.'‡

We are perfectly aware that there will be a ready answer to these facts, viz., that if there are disturbances or insurrectionary movements any where, they will, of course, take place in those districts, in which there is the most property to injure belonging to persons obnoxious to the peasantry.

But this answer, the only one in truth, that can be made, does in reality admit the whole weight of the assertion which those statements were adduced to confirm;—that the resident gentry are generally detested by the country people. With how good reason we have already seen.

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* *Vide* Commons Report, 1824, p. 67.
† *Vide* same Report, p. 122.
‡ *Vide* same Report, p. 151.

Let us conclude with a short notice of an occasion on which a body of the Irish country gentlemen gave to the public a remarkable sample of their moral sentiments. On the occasion of the recent general election, a peculiar combination of circumstances, which it imports not now to explain, overpowered the ordinary habit of submissiveness, and stimulated the peasantry in some counties, among others in that of Louth, for once to dare by disobedience on the vital point of their electoral vassalage, the utmost vengeance of their landlords. The measures adopted by the latter against the offending tenants are matter of notoriety. Distresses for arrears of rent, and ejectments when distraining, had exhausted the tenant's stock, were limited only by the consideration of the injury to their own interest which would result from throwing large portions of their estates out of cultivation. Vindictive processes, were, however, put in force, very extensively, against the most obnoxious voters. Indignation at the manifest iniquity of these proceedings, or say party motives if you will, (it is absolutely insignificant to the matter in hand to inquire which,) induced two Catholic magistrates of the county of Louth to stigmatise them publicly in some circular, or public letter, as "tyranny" and "oppression." Enraged, in proportion as it was just, at this decided reprobation of their conduct, coming, too, as it did, from men of their own class, from whom they were not used to meet with any thing but zealous assentation, the gentlemen of the county called a meeting of their body to mark their sense of the conduct of the two magistrates. We shall not quote the speeches of the different persons who spoke on that occasion, pregnant as they were with illustration of the feelings of the class, because they might be said to express the opinions of individuals only; but the following are among the Resolutions agreed to by the whole meeting:—"That whatever may be the *forbearance* of a landlord to enforce the payment of his rent, at the period when it really becomes due, it is still *but an indulgence* upon his part, not founded upon any right of the tenant: a favour which he can at any moment withdraw, without injustice, tyranny, or oppression. The system of landlords conferring favours and receiving none, is founded upon no principle of justice" [See the Irish journals at the time, end of November, 1826].

Think, reader, of this passage with patience if you can;—judge of those who can style the exacting from the tenant an agreement for a higher rent than he can possibly pay, and the keeping the arrears running to retain him in more complete subjection to their will, "forbearance," "indulgence," and "favour."

But we have not come to the highest pitch of the same strain.

Let us go on to the succeeding resolution, which is as follows: "Such phrases (as those of "tyranny," and "oppression" applied to their conduct) going abroad, circulated as they are under the authority of two names inserted in the Commission of the Peace, can only be regarded as tending *to destroy the good feeling that ever must exist in well-ordered society, between the higher and lower classes, by forcing the justly disgusted landlords to expend the income of their estates far distant from their lands, and leaving a demoralized and unemployed peasantry to all the rigour of offended law, that their discontent might bring upon them.*" So, then, it is not the seizing the property of poor people, and the turning them out of their homes for voting according to their own opinion instead of their landlords dictation, but the calling such proceedings by the name of "tyranny" and "oppression," which tends to destroy good feeling between the higher and the lower classes. Conceive *their* callousness to shame in holding such language as this, who have always openly, avowedly, boastingly, contemned the feelings of the lower classes; at a time, too, when their hand was against every peasant, and every peasant's hatred was against them; conceive *their* talking of the existence of "a good feeling between the higher and the lower classes." But reserve the expression of utter reprobation for the concluding part of the resolution; where, in the same sentence in which they assume that their residence is beneficial to their country, these landlords threaten, if they are "disgusted," by the free expression of men's opinion of their conduct at home, "to spend the income of their estates far distant from their lands," and to leave "a demoralized and discontented peasantry," which their own dominion had rendered such, "to the rigour of offended laws," of laws which, by making them the instruments of injustice, they had themselves taught that peasantry to offend.

Let the people who are annually taxed to so enormous an amount to support the dominion of these men, and the like of these men, carefully read the above-quoted resolutions: we do not ask them to do more; these, in themselves, contain a mine of evidence as to the character of the lords of Ireland: reflections will suggest themselves without aid of our's; we shall not have need to solicit converts to the opinion which we have formed upon them. What that opinion is, we cannot fully express, because the only language which would do justice to it, might, perhaps, be stigmatized as extravagant; all that we shall say is, that when we read those passages, disgust at the disposition which dictated them, and detestation of the institutions which armed that disposition with power, were in their utmost intensity the emotions of our mind.

ART. IV.—*Librorum Impressorum qui in Museo Britannico adservantur Catalogus.* 7 tom. 8vo. London. 1819.

NON MINIMA PARS EST ERVDITIONIS BONOS NÔSSE LIBROS. These words were inscribed over the door of a large building in a cathedral city in England, the front of which being of smooth free-stone, of a considerable height, and with no other than false windows; and it being situated in a hard, level, and open space, was very favourable for the game of Fives: it was accordingly applied to that purpose whenever the weather was fine, during the many hours of play on school-days, and almost all the day on holidays, by the boys of a neighbouring grammar-school. One of those boys has kept his eyes fixed for many hours on the door of that building, during several years of attendance at school, either playing at ball himself, or more frequently watching the play of others: for all the hours of all those years he can only remember to have seen the door of the library once opened, when a clergyman, notable in that city for his superhuman stupidity, was seen to unlock the door, and to enter; was heard to lock the door carefully after him, and soon afterwards to unlock it again; he then came out, immediately locked the door with mysterious caution, and went his way. It occurred to the young observer, and it will occur to every other person in like manner, that, with respect to that library, one of three things must be true: first, that the inscription asserts what is false; that it is no part of erudition, not even the smallest, to know good books; or, secondly, that the books which it contained were not good books, but bad ones, such as the erudite ought not to know; or, thirdly, that the library was in the hands of persons who were enemies to erudition, and who supposed that they had reason to fear the erudite. It is universally acknowledged, that the inscription speaks the truth; that far from overstating it, it greatly understates it; for it is not only a great part of erudition, or learning, to be acquainted with good books, but of wisdom also. Concerning the second and third suppositions, as it was unfortunately not easy to effect an entrance, so as to know the nature of the books, it is impossible at present to decide whether they or their guardians were bad, and of that class which the learned ought not to desire to know. It might, however, be possible, that readers of books of erudition could not readily be obtained in a small country town; if that be so, such books ought not to be suffered to remain there, but they should be removed to cities, where there would be no want of

students. In these very cities, however, there are books in plenty, and an abundance of readers; but they are kept apart, and access is steadily refused.

> "Excudent alii spirantia mollius æra,
> Credo equidem: vivos ducent de marmore vultus;
> * * * * *
> Tu regere imperio populos, Romane, memento."

We may easily believe, that the architects of other nations can build more elegant edifices than our new palaces and our new churches; we may easily believe, that other artists can cast better statues than the Achilles in Hyde Park; than the Charles Fox, in Bloomsbury-square; than the royal Duke, if such be the fat little fellow at the end of Portland-place; we can even believe that foreign nations may boast rhetoricians nearly as eloquent as our serjeants, and men of learning almost as great as our senior wranglers: but we cannot believe that any nation under the canopy of heaven can equal, much less surpass us in locking readers out of libraries: we are unrivalled in all exclusions. Few things are used or enjoyed with us except as a distinction; and, soon after any thing has become such, it ceases to be either used or enjoyed, because the bare title to be admitted to it, or to have it, answers all the purpose of distinction, the gratification of a paltry aristocratical vanity. The principle of exclusion is unhappily most prevalent, and it is the sure mode speedily to render every thing worthless. Persons who are thoroughly insipid, and without knowledge, or powers of entertainment in conversation; who have spent all their money on the tawdry trappings of vanity, or the rent of a house in a street that is considered a fashionable situation; on horses, carriages, and servants; who are in debt for the vile trumpery of ostentation, and who cannot afford to supply the commissariat of a handsome entertainment, seek, through the principle of exclusion, to make the mere fact of being admitted to their parties a sufficient apology for the want of every thing that should render them attractive; that this principle should flourish amongst the shabby genteel, is neither to be wondered at nor regretted; that it should have a place in our public institutions, and especially in our libraries, is deeply to be deplored, and ought speedily to be remedied. If we ask ourselves the question, wherefore did men make libraries?—it is only through the misconduct of those to whose care they are intrusted, that such a question has been rendered necessary; was it merely to preserve the books, or that they might be used? To preserve books this year, that they may be preserved the next, and so on for ever, is idle; it would almost be better

to use a library, like the caliph Omar, in heating baths and ovens, than not at all! "Why cumbereth it the ground?" A reasonable wear and tear of books must be borne with; they ought to be used as much as is consistent with their preservation, and preserved as much as is consistent with a full and most ample use: the safer side to err upon (although in this, as in all other cases, it is best to find the golden mean), especially with such works as may be easily replaced, is to sin by too great use; for books, when worn out, may be restored; but the opportunity of acquiring knowledge that is afforded to a generation, if once lost, cannot be redeemed: nothing is more valuable than time.

In order to form a just estimate of the exquisite skill of the English nation in rendering the most noble collections of books unavailing, it is worth while to take a short survey of a few of the principal Public Libraries: at the head of these stands the Library of the British Museum. The British Museum is of great utility to the republic of Letters; the Reading-room is well frequented; the librarians are extremely polite and attentive: in this one alone of all our public libraries, are civility and intelligence to be found. This institution is a green spot in a desert, but it is not so useful as it might be, and as it ought to be. The persons who read most, and to the best purpose, are generally professional men; they are engaged in other pursuits during the six hours when the Reading-room is open, from ten in the morning to four in the afternoon; but they might, perhaps, be able to visit it on feast-days and holidays, and sometimes even on a Saturday: on these days, however, it is invariably closed. The evening is the time when professional men would be at liberty to repair thither, all men sometimes, and many often: yet it is never accessible when it would be most convenient; and exactly at the hour when it would begin to be generally useful, it is locked up, and all are excluded. With respect to the exclusion on a Saturday, it is said, that it is necessary to set apart that day of purification, to sweep out and clean the Museum. As the new Reading-room is detached from the rest of the building, that reason no longer exists; and if it were not detached, as the Museum is shut every day from four in the afternoon to ten the next morning, it is evident that there is ample time, without the Saturday, to satisfy the cleanliness of the most scrupulous Dutch housemaid. With respect to the holidays, it is alleged that the librarians need relaxation: it is, no doubt, unfit that public officers, especially such civil persons, should be overworked, and it is a bad plan to require too much of any functionaries, and to deny them a

due portion of spare time; yet it is easy to procure a few more hands, and hands only, not heads, are required; for although one man of learning is needed to preside over a large public Library, and it may be well to allow him a deputy as accomplished as himself, yet if the Catalogue be correct, and the books properly arranged, under-librarians, whose simple duties are to bring the books which the readers desire, to file the vouchers, to restore the books to their places, and to prevent, by the presence of some one whilst the books are in hand, any injury being done to them, may be procured at low wages, one man being as well qualified to perform this office as another, and a boy being as good as a man. By a very trifling addition to the expense of the Institution, the Library might be accessible at all times, without breaking in upon the established, and, it may be, very reasonable leisure of the present librarians. To be really useful, the Reading-room ought to be open in the evening: it is said, that, if the librarians were to carry candles about the library, there would be a great hazard of setting the building on fire: we cannot deny that the loss of so valuable a collection would be a serious misfortune, and that every precaution ought to be taken to prevent the calamitous accident. Supposing it to be so imprudent to admit readers by candle-light, that the project ought to be rejected altogether; do we now make the most of the day-light? Does the sun rise at ten and set at four throughout the year? Are six hours any thing like a fair average of the duration of day-light? Is it not somewhat less than the minimum? It is certain that as twelve hours are the average period of light, the Museum might be open daily, during the greater part of the year, for ten hours, without having recourse to candle-light. It would be a prodigious accommodation to the studious merely to make the period of admission more nearly coextensive with the duration of the day. In case it should ever be deemed inexpedient to sacrifice a portion of time so favourable to literary pursuits as the long winter's evenings, it might be worth while to consider whether persons might not be admitted into a room detached from the library, to read there by candle-light, books which had been previously procured from the library by day-light? Whether the structure of the library, and the mode of lighting it, might not be such as would render accidents by fire nearly impossible. Printed books, if destroyed, may almost always be replaced; MSS. and *uniques* alone cannot be restored; if they were kept in a separate building which was fire-proof, or which might be entered by day-light only, the collection of printed books might be consulted, without fear of an irreparable

injury, at all times: MSS. and very rare works are comparatively seldom referred to. There is, in truth, but little risk from fire, if reasonable care be used, and the remote chance of burning the books is a much less evil than the locking them up; and why should we suppose that the librarians would set fire to a public, rather than a private, library?

The Libraries of the Inns of Court are very imperfect, even as law libraries: through a miserable jealousy and a little competition, which is productive of no good to the public, the Benchers have omitted to collect all the books together, and to form one good common library for the use of the four Inns of Court; but they are still distributed into four small collections. These paltry book-stalls are not all equally open to all barristers and students, but each one is confined to the members of a particular inn, and frequently tickets of admission, or some absurd certificates, are required even from them, as playthings for the restlessness of second childhood. They are not open all day, but for a short time only, which is, of course, so ill chosen, that they are always shut at the hours, and on the days, when it would be convenient to repair thither; and they are subject to many petty rules, and trifling vexations, and paltry regulations. If these libraries are defective, it is not through want of funds; the societies are enormously rich, and have no means of spending their money, except the very inadequate demand for repairs. In addition to the vast amount of rents from innumerable sets of chambers, all let at an exorbitant rate, they obtain considerable fees on the admission of students, and still higher fees when any one is called to the bar: they are paid for absent Commons, and they get other sums as dues, and under various denominations. They extract with the utmost diligence all that they possibly can from all their members, whether living or dead, from their executors and administrators, by all means, and under all names, whether intelligible or unintelligible, and receive them "for the use of the Honourable Society." If the libraries, therefore, are ill furnished, it is not from a want of nourishment, a lack of chyle, but from some stoppage caused by the plethora of wealth. That the Masters of the Bench should give bad dinners in their halls, is not to be wondered at, because it is more profitable to receive payment for bad dinners that are not eaten, than merely to be paid for good dinners, that are really consumed: but, although they mortify the body, it might be supposed that they would pamper the mind, especially as the Societies are formed of learned men, and for the purposes of learning; if, however, we turn with disgust from their Commons, we shall be equally disappointed in their libraries,

and shall find but little to gratify the appetite, certainly not enough to satisfy the most moderate hunger.

It is said that there is a good Library at Doctors' Commons, and it is not improbable; nor is it, that if any one were so inclined, he might walk through the most frequented streets of London for a year and a day, inquiring with a loud voice, but in vain, for a person who had seen it, and could give some account of its contents.

The Library at Sion College is reported to be extensive and valuable: a copy of all works entered at Stationers' Hall is by law due to it. To give an account of its present state is unnecessary, perhaps it would not be easy; for it is less difficult to find a student who has been baffled in his attempts to gain admittance, by the board, or bench, or chair, or table; by the admitting, or rather non-admitting, body, by whatever name of wood it be designated, than one, who had seen the interior of the library, or of any book which it contains. It is said to be consecrated to pious uses, even to the use of the London clergy. We may presume that, if a library were held of the king to the sole use of any body of the clergy by petit serjeanty, by the service of rendering to him annually some small book, bearing evident marks of having been read, it would soon be forfeited. A library which was formed by the clergy, is pretty sure to be a good one; for whatever is to be got by asking, they will certainly get. In all ages and in all lands, the principal office of a priest has been, to beg with great urgency; no one can be in company even with a bishop for five minutes without being assailed; the prelate begs, if not for himself, for some public or private charity, but beg he must and will.

The Library in the archbishop's Palace at Lambeth is said to be of great value: visitors have been turned back with civil incivility; an order to see the library has been scanned with the curious, envious eye of an advocate seeking for a special demurrer, a flaw, a variance, an irregularity: it has been held to be an order to see some particular librarian, who was not there, or to enter at some times or under some circumstances, other than those then existing: the curious visitor has been remitted to his original walk, and told, in substance, to measure back again his vain and manifold steps. Yet what son of song, what lyric poet, wild and wondrous in fancy, omnipotent in invention, can feign an use for these books? For whom are they set apart? who, will the most daring venture to say, ever reads them? Surely not the archbishop? No more than the ghosts of the Lollards, who lived and died in his tower, when the more exemplary patience of mankind permitted his predecessors to lock up not merely books, but the makers of books.

Concerning the Library in the College of Physicians, of whatever merit it be, a pleasant story is related; that a book which ought not to be unknown to any well-read man was once sought for by a person of more than ordinary curiosity; the book was in a press that was locked, and after a long search, the key was found in a place where, it was clearly ascertained, from some circumstances, that it had remained undisturbed for upwards of eighty years.

On the motion of Mr. Peel, some conversation arose lately in the House of Commons respecting the College of Surgeons. It was complained that that royal body exclude even their own members from their Museum and Library, which ought to be open during the whole of every day to all the world. It was answered very satisfactorily, that persons are not admitted, because the catalogue has not been completed. A library with a catalogue is best, but a library without a catalogue is better than no library at all. A famished guest is forbidden to eat, because the bill of fare has not been fairly written out: there is plenty of excellent beef and mutton, of pork, veal, and lamb, of roast and boiled; of fish, fowl, and game, smoking under the nose of him most hungry; there is hot and cold in abundance, meats and drinks of every kind, without stint, and an admirable appetite; but stay! hands off!, the Surgeons cry, let us execute faithfully to the letter what Cervantes feigned concerning one of our predecessors; not a single mouthful will we allow any one, not even Sancho Pança himself, to take, until the names of the dishes have been severally entered in due order "by Mr. Clift, who is admirably qualified for the task," writing, as he does, a good round text hand, which is comely to look upon, and extremely legible. Such an excellent collection ought to have an exquisite catalogue: this is told to Mr. Peel, and his vision is not sufficiently sharp to see through the thin veil. The governors, or council, or board, or whatever the excluders call themselves, ought to say, that such an exquisite collection deserves a perfect catalogue, and as no human work ever can be absolutely perfect, they would have the satisfaction of shutting up the exquisite collection for ever. How little wisdom governs the world! How little sophistry satisfies mankind! A library is good, therefore it ought to be shut up for a long time: it is perfect, therefore it ought to be closed for ever. This is too strong; a man like Mr. Peel will not swallow this; but insert a few unmeaning words, and it passes. A library is good, it ought therefore to have a good catalogue, to compose which is the work of time, and until it is finished, let the door be shut. This is held to be a good reason for shutting the library; it is

true that a good library deserves a good catalogue, and that even for Mr. Clift to complete it, some time is required: but why is the door to be shut meanwhile? where is the proof that the library ought to be closed for a single day? Temple Bar is a gate of such antiquity; it has so often been decorated with the heads of traitors; it is such a noble entrance into the city, that it ought to be shut, and ought not to be opened until an angel comes down from heaven for the express purpose. If this were done, it is not very improbable that it would be a long time before the inhabitants of the adjoining part of Fleet-street would be disturbed by the rattling of carriages; and, if it were closed, it is not very improbable also, that, since Mr. Peel is so easily turned back, it would not be opened by his efforts; for, if he were making a motion towards the city in his carriage for that purpose, when the porter gravely stated the ridiculous and hypocritical pretext, he would put his head out of the window, and say to his coachman, "Then drive home again, John, it is fit that such a dignified gateway should be treated with due respect; and go slowly; reforms should be gentle and moderate!" And he would act rationally, for our obstructions are consecrated by the solemn practice of such a long antiquity, that they can be removed only by an actual miracle.

It would require more time than can be allotted to the subject, to treat even briefly of all the public libraries in the metropolis: but what is the situation of the libraries of our two universities? The Cambridge University Library contains many old books, and is entitled to a copy of all works entered at Stationers' Hall. It affords many facilities to students, and by a judicious reformation, it might be made to afford many more. It is complained, that although they may have all the books that are published for asking, yet the librarians have been too lazy to take the trouble of ordering them. Some of the colleges have fine libraries; that of Trinity College strikes the stranger, but there is little appearance of the books being put upon severe duty, if, indeed, any be required of them. In some colleges the libraries are in a most sordid and filthy state; the books are buried under dust and cobwebs, and are evidently more acceptable to spiders than to Academics. The Pepysian Library, at Magdalen College, labours under the absurd restrictions imposed by the donor; it is necessary for one of the fellows of the college to be personally present when a stranger inspects the library; this regulation is of course a complete *veto* upon reading, and renders the collection, whatever its merits may be, utterly useless; for to evince any curiosity respecting books, or to examine their contents, in the company of any resident

fellow, would be as flagrant a breach of propriety and decorum, of academical decency, and of the sober self-restraint touching literary enjoyments becoming a well-endowed university, as for a husband to caress his wife in the ungenial presence of an old maid.

And for the sister university, the elder and richer sister: it is at Oxford that books most abound, as well as restrictions and prohibitions. That University contains volumes enough to occupy the industry of all the students in Great Britain, and yet with difficulty and grudgingly is any one permitted to consult a single volume. In no country in the world, especially if we take Oxford as a specimen, shall we find the public libraries so closely shut up as in England: in Paris they are quite accessible; in all the German states they may be consulted with remarkable facility; at Florence, and in many cities of Italy, the doors of precious collections stand open, and all may enter: even at Rome, where knowledge is nearly as unpopular with the rulers as at Oxford, even the Vatican Library is professedly open to all, and the studious are excluded, rather by hypocritical subterfuges, which is a more kind, and comparatively a more generous, proceeding, than by that hardy use of the lock and bolt, which is so remarkable on the banks of the Isis. There rigorous exclusion prevails, nor is cunning wanting in order to keep up appearances, insufficient however to remove that deep dislike, which every lover of his country and his kind must feel to such pernicious and absurd restrictions; recourse is had to craft; and as to the very libraries that are most carefully shut up, their keepers contrive to preserve a fair aspect, and to make a false show of liberality, by throwing them open with striking officiousness, and by a parade of assistance to weak persons who are about to publish a book, in the lively faith, that the great lights which have been obtained within the ever-open doors may be proclaimed to the world in the preface: this advertisement will be especially acceptable if the work be in support of bigotry and superstition. The wretched puffing is to the advantage of both parties: the enemies of knowledge thus get credit for being its friends, and for affording that information which they in fact habitually refuse; and the impostor who publishes a quacking book, finds it much easier to declare in his preface that he has searched through such a library, than to take the trouble to do so in fact; and he may generally be quite sure that no one is in a condition to contradict him.

The University Library at Oxford, or, as it is called, the Bodleian, is one of the largest and best collections in the world. In

former times the admission seems to have been more free than at present: we find, it is true, statutes breathing the spirit of the holy Inquisition, as "that Bachelors of Arts and Undergraduates shall abstain from reading books not conducive to their faculties, under pain of a due punishment;" and "that they should remain in that part of the library where the books in the faculty of arts, and they alone, are contained"; such as grammars, dictionaries, certain treatises of Aristotle, and the commentaries thereon. So great, indeed, was the dread lest they should know too much, that even books of law and medicine were forbidden to those who went out in Arts. "Statuimus, ut Baccalaurei Artium, et omnes alii non Graduati, in posterum a lectione librorum studiis suis minimè competentium abstineant; quod si quis deliquerit contra formam hujus statuti, et admonitus per Bibliothecarium vel ejus deputatum non resipuerit, tradetur statim nomen ejus, per custodem Bibliothecæ sive ejus deputatum, Vice-Cancellario et Procuratoribus, ut debita pœnâ, ab eisdem puniatur."—*Statuta Bibliothecæ Bodleianæ.*

"Pro explanatione cujusdam Statuti controversi (quo cavetur quod Baccalaurei Artium, et omnes alii non Graduati, abstineant in posterum a lectione librorum, studiis suis minimè competentium); decretum est, quod Baccalaurei et non Graduati non vagabuntur de loco ad locum; sed in eâ parte Bibliothecæ sedulò studiis suis incumbent, in quâ libri Facultatis Artium (iique soli) continentur. Proviso semper, ne exteris et peregrinis, vel Juris aut Medicinæ Studiosis fraudi sit, quin libris Facultatis suæ respectivè frui liceat."—*Statuta Bibliothecæ Bodleianæ.*

It was not until later times that venerable audacity was sufficiently confirmed to exclude all students, until they had passed four years at the university. When you have resided four years, you shall be admitted: but four years are the period commonly devoted to academical studies; young men usually depart at the end of that time; at least, all the young men who would read to any good purpose; all, save the eleemosynary priests, who remain to be tutors, and to fill other college offices. To grant admission after four years is, in truth, to say to the student, when you have left the university, you shall be free of the library. The life of man is threescore years and ten, or, it may be, fourscore years; when you are seventy or eighty years of age, you shall enjoy the air, the light of the sun, and the free use of your limbs, meanwhile you cannot possibly object, O ingenuous youth, to be packed up in a barrel in a dark cellar, and to take your food through the bung-hole. A

canting pretext is never wanting: it is said that many remain after the usual residence of four years to pursue their studies. But who remain to pursue their studies? They alone remain who seek to live on alms, to obtain fellowships and college livings, and to become masters of colleges; and these good things, it is notorious, are not gotten by studies. Who pursue their studies? What studies are pursued? The professors give as many, or rather as few, lectures as will entitle them to their salaries: this man calls himself Hulsean, or Bampton, Lecturer; that Poet, or Public Orator; another Christian Advocate, or Esquire Bedell, or by any name, Christian or Heathen, forensic or military, but not that he may pursue studies; he pursues the annual income arising from some charitable foundation. What is studied at our universities, or what is ever produced there, except to serve as a pretext for laying hold of monies left for public purposes? It is often gravely stated of some of these distinguished students, "that these pursuits were interrupted by the exchange of an academical life for the clerical duties of a country village, which engrossed his chief attention:" what could be the pursuits which were thus interrupted, what the ardour or activity of the student? It is pretended that students of extraordinary proficiency, or of remarkable zeal, may be admitted to the Bodleian, as soon as they are matriculated, on application to the authorities, and as a special favour; but whoever has applied for this act of grace well knows the nature of the objections that are raised against granting it, and that the following lines give but a faint idea of their number:

"Quot volucrum pennæ, quot sunt tormenta Gehennæ,
Quot cæli stellæ, quot sunt in orbe puellæ,
Quot Sancti Romæ, quot sunt miracula Thomæ."

Supposing, even, that the doors of the Bodleian were open to students, not only after they had left the university, but whilst they are actually resident, it is so frequently shut up, the calendar of popish fast-days is so long, and it is on holidays that a public library ought especially to be open, that when ordinary studies are suspended, an occasion may be given for extraordinary and miscellaneous inquiries, and, moreover, the hours of admission are so few and so ill-chosen, that a very extensive reformation would still be necessary. The interdict against fire is enforced with such absurd strictness, that the library is rendered useless during a great part of the year, on account of the intolerable cold; the Summer, during which season only a spacious and ancient apartment can be borne without a fire, being almost entirely consumed in vacation; the academic year consists almost altogether of ungenial weather. It would be so

easy to reconcile a due care of the books with a proper attention to the just demands of the human body for external warmth, that it is impossible to believe there is not some more powerful motive for persisting rigorously in an inconvenient practice, than the mere wish to secure the library from accident; no less, doubtless, than the darling object of repressing knowledge, and, under hypocritical pretences, to throw impediments in the way of learning. It is the delight of churchmen to mix up oaths with all matters, however trifling, with a design, as a mere layman would suppose, of making religion ridiculous and contemptible. We accordingly find in the statutes relating to the Bodleian, in so simple a matter as the admission of a student to a library, which ceremony, in truth, ought to consist of nothing more than opening the door for him to enter, or rather, in suffering the door to remain open all day for the indiscriminate ingress of all who feel capable of appreciating any part of the treasures within, that he was first to be choaked with a formidable oath; an oath, of which the terms are so ludicrous, that it is impossible not to transcribe it:—

"Sancitum esse volumus, quod priusquam Graduato cuicunque, alterive cuiquam præstantioris notæ vel meriti, aditus in Bibliothecam patefiat, coram Vice-Cancellario ejusve Deputato, adstante Bibliothecario, fidem bonam Bibliothecæ præstet, nempe sub juramenti obligatione in hæc verba concipienda: Tu promittes, sanctèque coram Deo Optimo Maximo recipies, quod quoties in publicam Academiæ Bibliothecam venire te contigerit, animum ad studia per modestiam et silentium accommodabis; libros cæterumque cultum sic tractabis, ut superesse quam diutissimè possint.

"Item quod neque tu in persona tua aliquem, vel aliquot libros surripies, permutabis, rades, deformabis, lacerabis, scindes, annotabis, interscribes, sponte corrumpes, obliterabis, contaminabis, aut alio quocunque modo detruncabis, abuteris, deteres, imminuesve; nec alii cuiquam auctor eris horum quidvis perpetrandri; sed quantum in te est, delinquentem vel delinquentes impedies; ipsorumque maleficia Vice-Cancellario, ejusve Deputato, intra triduum postquam tibi innotuerint, denunciabis: Ita te Deus adjuvet, tactis sacrosanctis Christi Evangeliis."—*Stat. Bibl. Bodl.*

What a strange profanation of the most holy gospels of Christ to pledge them, that a youth shall not blot or dog's-ear his book! You solemnly swear by all that is sacred that you will not break the point of my pencil?—I do. Then take it and write, but mind. It would surely have been better to have left the several promises to an implied contract, and to the vigi-

lance of the under-librarians, than to have embodied them in an absurd oath: it is better to prevent, by active superintendence, the damage which is apprehended, than that the conscience should be burthened with religious obligations, and that a young Grecian should consult Constantine's Lexicon, or the Port-Royal Greek Grammar, at the risk of his eternal salvation. Instruction and superintendence are more effectual than a thousand oaths: it is more advantageous to procure a good cook, or to have a servant taught the culinary art, and then to require a due performance at his hands of his most important functions, than to swear an ignorant and careless person, "well and truly to execute the office" of cook, or even to administer a special oath, not to over-roast or to under-roast, not to boil too much or too little; not to burn, to singe, to scorch, to bishop, and so on, through the long vocabulary of culinary verbs. The reader's oath is to be taken in the presence of the librarian; so that of the cook should be administered before the butcher, the fishmonger, and the green-grocer. With respect to the concerns of the kitchen, a due diligence and superintendence are exerted at Oxford; they do not swear their cooks, and their cookery is excellent: why, therefore, should men who live so well by religion, strive so incessantly to make it ridiculous? The reader's oath was considered of such importance, that whoever introduced strangers (so great was the zeal for learning!), or persons who had not taken the oath, was not only to be fined at the will of the vice-chancellor, but was also to be imprisoned. "Quid multi, statutem de non introducendis extraneis, aut injuratis, in Bibliothecam publicam studendi causa, penitus ignorantes, aut non satis attendentes, pœnam incurrunt gravissimam; si quis in posterum deliquerit in hoc genere, sciat se incarcerandum præter pœnam pecuniariam arbitrio ac judicio Vice-Cancellarii delinquenti infligendam."—*Stat. Bibl. Bodl.*

In addition to that inestimable and boundless collection of books and MSS., the Bodleian, there is at Oxford another University library, called, from its founder, the Radcliffe, and the libraries of many of the colleges, especially of All Souls College and Christchurch, are extensive and valuable: no visitor at those colleges can remember to have seen by accident any person consulting any of the works that are preserved in those noble collections. Who of the Myrmidons, or of the Dolopes, or what soldier of the stern Ulysses, can refrain from tears, when he reflects on Oxford, the most beautiful of cities, and thinks of all the useless materials of knowledge which she contains; what she is, and what she might be; how little she teaches, and how much she prevents from being taught: he is

not a man, but a monster, who will not cry, "Blessed be the amending hand!" The rich foundations at our Universities are the grand impediments to knowledge, the scholarships, the fellowships, the masterships, and all "the ships of Tarshish bringing gold and silver," and leading through the church to rich livings, and to all that can set a seal on indolence, and make dulness impenetrable, and can foster bigotry and intolerance, whereof the corner-stones and bases are solid massive ignorance. If a book even of logic, a mere hungry school-book, be written at a wealthy University, every example will contain a dishonest and dishonourable insinuation; and the very subject given out for a prize-essay, will breathe the fierce spirit of persecution, will be an insult to some sect of Christians, and an invitation to hate our brethren. The main object at a well-endowed University is not to get learning, but a living, or a fellowship, and this is seldom to be attained by being wise, or learned, but by sneaking to patrons. It is desirable for the candidates for good things to narrow, as much as is possible, the sphere of competition, and this is most easily effected by encouraging bigotry and intolerance: the foolish and ignorant have no other chance of overcoming the wise and learned, except on some odious ground of exclusion and disqualification, and in this way they are unfortunately but too successful. The gentleman obtains a fellowship by being of Founder's kin, and thus the man of family, with the pure and blue blood of nobility, at least such as the English nobility is, flowing in his veins, is maintained on the bread of charity, like a pauper in a hospital: the cub of a ploughman, or of a country curate, being too idle for honest and healthy labour, walks up to some college, subsisting by the way on the bread and cheese which he carries in his pocket, is received, because he has a downcast, disingenuous look, and performs the menial offices of a lay-brother for several years, living on scraps, and by cringing, and consoling himself under perpetual snubbing, by swilling college ale, and by the hope of exercising petty tyranny in his turn; his servility is at last rewarded with a fellowship, and with the power of disposing, in conjunction with other pillars of the faith, of other fellowships; he is accordingly maintained in luxury during the rest of his life at the public expense, in order that he may take care that no one of more generous or liberal sentiments than himself be ever thus maintained. "Blessed be the amending hand." The public have at last learned what kind of education is given to their sons by those pure and holy mothers, the two Universities; how beneficially their enormous funds and vast patronage, a prodigious mass of public property,

are bestowed: the light of day has broken into the sacred domiciles of the muses, and the sun at last penetrates the consecrated grove. "The fine manly avowal" of the Quarterly Reviewer, that all is not right (for so men have been used to call an impudent confession of guilt), will not suffice: something must be performed; "candour," that is to say, hardihood in crime, will not gain credit to subsist upon a little longer: a searching remedy will soon be applied, a sweeping reformation is about to take place. "The hoary Camus" is now known to be an old rogue, and men have begun to watch the slips of "the silver-footed Isis," and to believe that she is something worse: they foretel that the fate of Babylon wants Babylonian sins.

There are large and valuable libraries in most of our cathedral towns and cities, which are intrusted to the care of the chapters, and which are vulgarly called the libraries of the several chapters; and they are said to belong to them, in the same sense, that the cathedrals are said to be their property; that is to say, the deans and canons, or prebendaries, are charged, in consideration of a stipend and under penalties, to take care of them for the use and enjoyment of all the king's subjects. These libraries are commonly kept locked with great diligence: it is less easy therefore to find persons who have been permitted to enter them, than curious inquirers who could not obtain the librarian, or the key.

A slight private interest is sufficiently strong to bring about a great public abuse: for instance, it is always the interest of the librarian to give himself as little trouble as he can, and as short an attendance as possible; the poor low wretch who is usually placed in this office, in all but the first-rate libraries, contrives, by degrees and by perseverance, eventually to shut up the library, or, at least, to exclude all students. Persons who repair to read in public libraries are often of humble rank, the inferiors in the eye of the world, even of the librarian, and always his inferiors in standing and knowledge of the usages, or of the supposed, or asserted usages, of the place: they are therefore unable to contend with him, and are entirely at his mercy; and what mercy can he have for readers, for those who would give him trouble? The chief librarian in public libraries of the first class has commonly a large salary; he is consequently too much of a gentleman to give himself any trouble, and so is it often with the deputy: the miserable fellows who are under them, and who really attend, if there be any attendance, have a wretched pittance, and are too mean and ignorant to know any thing. A librarian resembles any other public

officer appointed by government, who neither discharges the duties of the office himself, nor suffers another to do it.

It is a common fraud at public libraries, to thrust the Catalogue down the throats of all who seek admission; to compel them to purchase a large and expensive volume; partly for the sake of dear lucre, but mainly to favour the darling object and aim, exclusion. If ever the College of Surgeons complete their catalogue, it will be, no doubt, for the sake of forcing it upon all visitors. We find, of course, the following clause in the statutes of that august domicile of the Muses, Oxford: "Tertio, quod omnes et singuli studiosi, admittendi ad studendum in Bibliotheca, teneantur emere catalogum librorum ejusdem Bibliothecæ, quandocunque eum denuo typis vulgari usus ac utilitas studentium postulabit. Catalogo vero pretium, in singulos libros, statuent Vice Cancellarius et Curatores."—*Stat. Bibl. Bodl.*

It is unnecessary to enlarge upon the great benefits that would flow from opening the Public Libraries freely to all persons. A library has been fitly named a collection of medicines for the diseases of the mind; and the wisdom of that king of Egypt who, as Diodorus Siculus informs us, inscribed over the door of his library ΨΥΧΗΣ ΙΑΤΡΕΙΟΝ, the Dispensary for the Soul, has been justly admired. The most fatal mental disease, and which is unhappily epidemic in England, is intolerance: it is against this very disorder that a large and free use of books is most efficacious. Much illiberality and prejudice may be got rid of in travelling, and by seeing that other nations differ from us in many respects, even in many things which our grandmothers and the vicar have taught us to consider as vital, and that they are notwithstanding wise and happy: the same effect is produced by various reading; and if the impressions gained in travelling be more lively, yet reading has some advantages over travel; for we not only see the customs of different places, but of different times also, and we learn to venerate the wisdom and to tolerate the follies of remote ages. The English travel more than any other nation, but they require it more, because they are more prejudiced. By diffusive reading, toleration is learned, and it is much needed, for the besetting sin of this land is intolerance; one opinion only being allowed on all subjects, and that most commonly is the wrong one. To get the largest number of great men it is necessary to make the field of competition as extensive as possible: many scholars would be formed in our public libraries, if they were accessible; for we have heard of some learned men who commenced literature as stall-readers. Amongst the many benefits, it would not be the least that it would be more easy to become familiar

with ancient literature: an old Archæologist writes,—"that city once the nurse of reason, which flourished in eloquence and brave achievements more than all Greece; that Athens whence the learned fathers of the church suckt rare literature, Basil his eloquence, Nazianzen his strength, and others their flowing oratory; that Athens which he who had not seene is by Lysippus accounted a block, *ει μη τεθεασαι τας Αθηνας, πελεχος εἶ.*" If it be not true that every man unacquainted with ancient literature is a block, πελεχος, it is certain the most effectual means of preventing him from being a blockhead, if any thing will do it, is a strict intimacy with classical authors, and especially the being completely saturated with Greek. By assiduous reading of the Classics, a fine spirit of sceptical doubt is acquired, which persons who are not conversant with those authors, nor profoundly learned on any subject, intending to reprobate, but in truth thereby commending, term never being in earnest about any thing. The seeds of theological hate are rooted out by these studies, and the amiable temper of the ancient philosophical heresies is revived; of which Philostratus gives a charming picture in his life of Apollonius of Tyana in a few simple words: that person differed with his master Euxenus, who was an Epicurean: he said to him therefore, "Do you live in your own way; I will live according to Pythagoras:" *συ μεν ζηθι, εφη, τον σεαυτε τροπον, εγω δε του Πυθαγορε ζησομαι.* He presented his master with a suburban villa, and a pleasant garden, and showed no wish to deprive him of any natural or civil right, much less to burn or imprison him. These studies are inestimable, because they afford much innocent and economical pleasure; every step that brings them nearer to the many, is to be prized. Let us take, for example, Bailey's Ovid, which is a useful school-book; the verbal order has smoothed one of the chief difficulties in learning Latin, and it would be easy to refer to many persons who have benefitted by it: amongst them would be the writing-master of a small school in a remote village in Yorkshire. He improved his Latin by the help of this book, and raised himself from the Latin Testament to Ovid's Metamorphoses. He had one day been reading with great admiration the description of the palace of the Sun at the beginning of the second book,

"Regia Solis erat sublimibus alta columnis,"

and so full was he of delight that he said, he should have no objection to be the Sun, and to be so well lodged; and he discoursed for a long time with much pleasure on the manner in which he would fill the important office. It is a

great act of kindness to enable the writing-master of a little school, and it must be a great comfort to him, to fancy himself the glorious sun. It was certainly difficult for those who were acquainted with him, and who knew his worth, to believe that he resembled that great luminary, even when arrayed in his Sunday attire: a single-breasted drab jacket, with steel buttons; a neckcloth of pea-green silk, with which, as he could never be induced to name the giver, it was suspected that the blind archer had had some concern; a long chintz waistcoat, in which, he used to boast with a pride that even the most humble-minded could hardly blame, his poor father had been married; a pair of olive-coloured plush shorts, white lamb's-wool stockings, and laced boots. Although, through the weakness of the human imagination, it was difficult to keep pace with the fancy of this fine penman and very worthy man, yet it was evident, that even his slender acquaintance with the mythology of the ancient world, was the cause of vast gratification, and that it is desirable to extend to as many as possible the opportunities of cheap and varied pleasure. It is true, that knowledge is generally diffused, and to a remarkable degree, but it is merely superficial: there never was a time since the restoration of learning, when men of solid and extensive acquirements, when men really learned, were more rare than they now are in Great Britain. Hence people read but superficially, and our authors write for such readers only: if they consulted authorities, and probed to the bottom of subjects, or even went a little more than skin-deep, works like Hume's History of England would never have been highly prized; still less would Mitford have ventured upon the daring, but dull, misrepresentations which form what he presumes to call a history of Greece. There is, to our disgrace, little encouragement shown to any author, unless he flatters the narrow prejudices that form the small circle of modern literature. It should seem that the meddling persons, who generally contrive to get the superintendence of libraries, find the ignorance of the public favourable to their ambition.* Our Universities are exceedingly expen-

* No one, for example, a degree above the illiterate idiot would be taken by such an argument as this—that a man, who promised another to comply with his wishes, and not to do a particular act which was then disagreeable to him, when the other contracting party, in consequence of the growth of his intellect has changed his mind, and requests him to do that very act, which he had formerly made him promise not to do; although he is very desirous to oblige him, he is yet bound by his very promise to comply with the wishes of the other, not to comply—that is to say, that the king, by his agreement with the people of England, by their representatives, in the coronation oath, to recognize the voice of the people as

sive and very inefficient: the rich only can repair thither; and the poor alone, who seek to live on alms, remain there. Other persons are obliged to pick up a scanty education, as they can; the lower branches of all professions are filled with men who, in comparison even with the ill-educated wealthy, are but half educated; their ignorance is the cause of much degradation to the profession to which they belong, and of great inconvenience to the public. These evils are severely felt in the legal profession; tautology is resorted to by the inferior members as the means of extorting, if not an ample, at least a less niggardly remuneration; in most cases it is resorted to as the means of obtaining payment; it is the resource also of weakness, which cannot give a value in the quality, and therefore is compelled to supply a large quantity, and it often proceeds from timidity, or ignorance of the nature of language. Unless the deep darkness of ignorance had long overspread the land, our special pleaders and conveyancers would not bury a small morsel of meaning under such masses of unmeaning jargon; nor would the style of our Acts of Parliament have grown luxuriant with such a barbarous diffuseness. A very slight degree of scholarship would teach our draughtsmen that to seek to express all is a vain attempt; that much must be always, after the utmost efforts of tautology, left to implication, to ellipses, to be understood and inferred. It has been said, that even in the shortest sentence, as "I will give you a shilling," if all were to be written at length that is thereby comprehended, the whole world would not contain the books; and it has been bitterly observed, in reference to the practice of endeavouring to leave nothing to be understood, that our conveyancers and special pleaders, and particularly the framers of our statutes, take it for granted, and somewhat rashly, that all their readers are, like themselves, totally ignorant of all things, and utterly incapable of understanding any thing. It is not only in our deeds, pleadings, and statutes, that we are such severe sufferers from verbosity; in the voluminous rubbish of our innumerable Reports, besides the prolix decision of a case, generally unim-

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the voice of God, and not to attempt, as James II. attempted, to introduce popery into the realm against their wishes, is solemnly bound to resist their wishes, by his promise to comply with their wishes, and is compelled to refuse to accord to the Catholics that emancipation and equality of rights, which are essential to the public peace, and in accordance with the spirit of the times. In order that this most consummate effort of human effrontery, the assertion, that a promise to oblige binds the promiser never to oblige, might have even a remote chance of success, the most entire, total, and brutal ignorance was indispensable; and so with many other impositions which are still inflicted upon us.

portant in itself we are compelled to wade through whatever the prattling anility of a garrulous judge has chosen to utter in consumption of the time of the public. Unless ignorance were so universal that men knew not the mischiefs it produces, and had forgotten the advantages of learning, we should not see in public and judicial situations men, who either absolutely know nothing, or nothing save their little narrow science, and who, by consequence, do not know that well; and uneducated persons would meet with ridicule, rather than attention, if with an intent to cover their own nakedness at the expense of another, they should presume to say, such an one knows much else, therefore he cannot know that. In like manner, a man is sometimes said to be a good logician, because he is that and nothing else, and ignorant people infer, that a man who has much higher qualities is not a logician, and cannot reason. As if it were asserted of some blockhead, who can neither read nor write, that he is a good sleeper, and inferred from thence, that he who can read and write, can never sleep. If nature had been nothing more than a good logician, we should not have this beautiful world, in the creation of which so much fancy and invention are shown. A man who knows but one thing, if it be possible to know any thing singly and alone, is bigoted and intolerant; a judge who knows nothing but his law (and such have sometimes unhappily disgraced the bench) is ready for any oppression: persons of this kind have industriously propagated a rumour, both false and mischievous, that a man who knows any other part of knowledge, cannot be a good lawyer; but in truth a barbarian, who is ignorant of every thing but law, ought never to be raised to any important post. We shall invariably find that various knowledge induces liberality, and a spirit of toleration.

Respecting the proper remedy for these crying evils, in order to abate the nuisances complained of, and to restore to the public their just rights—to which the claim is not the less lawful and righteous, because the exercise of them has long been suspended—it would be a convenient and profitable thing to appoint a commission, to consist of two or three persons, other than priests, who know what books are, and what libraries ought to be, to inquire into the state of public libraries throughout England; of the number and kind of books they contain, of the regulations for admission, of the times when the libraries are open, and of the number of persons who have been admitted within a given time. It will be said, that as no accounts have been kept, it will be impossible to make an exact return of the number of visitors, but let commissioners take the largest num-

ber that even the persons who may fancy they have an interest in augmenting it will venture to give. There are more public books in this country than in any other in the world, but we repeat they are more closely locked up: it is a sacred duty to inquire into these matters, and as we have at last an administration of which some of the members at least, do not openly boast of their disposition to neglect and contemn their duty, nor take credit to themselves, as heretofore, for being as free from any tincture of letters as Goths or Vandals, we are not altogether without hope that such an inquiry may be set on foot. The report of the commissioners would excite great astonishment: first, on account of the prodigious wealth which the public possess, in books and MSS., and all the means of knowledge; secondly, because of their utter uselessness; and that mean jealousy, ignorance, and idleness, have contrived to make unavailing these stupendous resources, and to paralyse and render torpid such gigantic strength. It should also be inquired in what manner, and by what changes, these means could be rendered efficient to the utmost extent; and perhaps, likewise, in order to satisfy all possible scruples, by whom, and when, the various collections were presented to the public. The spare books alone, supposing that any are now used, or supposing even that many will hereafter be used, at Oxford, and the libraries of the chapters of cathedral churches, which rot unheeded in solitary country towns, would of themselves not only supply a splendid library for the London University, but would furnish many noble reading-rooms for the public in different quarters of the metropolis, and in the large towns. It would be easy, without injuring any one, or any city, to make a good library for the London University, of duplicates, or even of quadruplicates: it was reported at one time, that a distinguished collector, equally remarkable for learning and liberality, had intended to present his duplicates, which would alone form no inconsiderable collection, to the University of Oxford: as he can have no reason to be especially grateful to that body, and as he is sufficiently acquainted with the state of learning there, to know how useless any such present would be, all men who wish well to letters and to their country, would hope, that he should be disposed rather to turn the stream of his generosity into a more useful channel. A donation to Oxford would now be lost in the long catalogue of unused gifts; but, as sir Thomas Bodley has rendered himself immortal by his munificence, which was at that time duly appreciated by the persons on whom it was bestowed, so a liberal benefactor, by a well-applied donation of books, might now confer a vast benefit on

his country, and build himself a mausoleum which would preserve his name, as long as books endure.

The objections that would be raised against disturbing the present arrangements of public libraries, and interfering with the dispositions of deceased founders, are answered simply by being stated with fairness and candour. The intention of the founders of libraries, and of similar benefactors, was doubtless to promote learning, and the subsisting rules were framed with that view: if they have sometimes failed in their object, we cannot doubt that those excellent persons would rejoice that they should be remodelled and made more efficacious; and, if they could know them, they would indubitably be gratified by our pious efforts. No one but a bigot, stupid and incapable of understanding any thing, and strangely ignorant of the real nature of rights, would complain of such changes as being an infringement of the right of property, or a violation of testamentary disposition and foundation. The worthy persons who now have the care of literary benefactions are, and we are bound in justice to believe them to be, trustees for the public, and honest, conscientious trustees, not public enemies and impediments to learning. Donations and bequests have always been made by persons who were desirous of encouraging education, and whenever they have left any regulations as to the mode of using their bounty, their motive was, that it might be rendered thereby more useful; but if, by change of times, or otherwise, it has been found, through experience, that the method enjoined has proved ineffectual, and that a better might be devised, to adopt such a change is merely to put in execution the intention of the testator, or donor, and not to set it aside. To pretend, therefore, as some ignorant little factious priests pretend, that, when the object of a patron was to encourage learning, to assist him in his object is in fact to thwart him, is so absurd, that it can only be compared to that most extraordinary and audacious sophism, which has been invented, to strain the coronation oath to purposes of intolerance, and to turn a compact entered into between the sovereign and the people for their mutual advantage and security, to the bane and detriment of the people, and the destruction of the monarch. It may be doubted, whether with the good all becomes good, but it is certain, that with the evil every thing is readily turned to evil. Whatever may be said about a reverence for the will of testators, will be but a pretext: the plain truth is, that all fanatics dislike books, from the caliph Omar, who was able to burn a whole library at once, because whatever it contained in contradiction of the Koran was false, and whatever book

asserted the same doctrines was superfluous, down so low as George Whitefield, who boasts of a book-drowning exploit of his, in his Journal, p. 70.

It may be that the estimable persons, who are hostile to the education of the people, will talk on the point of vested interests and vested rights. It is fit, therefore, that the nature of these rights and interests should be accurately understood; it is precisely the vested interest of the dog in the manger; not the right to enjoy, but the right to prevent others from enjoying, and that is indeed a most sacred right: if that be violated, farewell to our liberty.

Vast tracts of country in North America have never been cultivated: let us imagine that a set of persons claim a right, not to cultivate the land themselves, but to prevent others from meddling with it, that no one should ever use it, and we have at once a parallel case of vested right. Latona was thirsty, and sought to drink of a brook; the rustics of Lycia envied her this cheap refreshment, not that they were water-drinkers themselves any more than the guardians of our public libraries are readers; but, for the malignant pleasure of preventing her, they leaped into the water, and made it muddy; she wished that they might always continue there, and they were turned into frogs.

"Quid prohibetis aquas? usus communis aquarum est."

The men who would prevent us from drinking at the common streams of knowledge, who would shut up our books and shut us out of our libraries, ought, as far as we are able to effect it, speedily to be turned into frogs; that is, they ought to be thrown into the nearest river, with such previous precautions as would insure their remaining there for a sufficiently long time to give the experiment a fair trial.

ART. V.—*Original Letters, Illustrative of English History; including numerous Royal Letters: from Autographs in the British Museum, and one or two other Collections. With Notes and Illustrations* by Henry Ellis, F. R. S. Sec. S. A. Keeper of the Manuscripts in the British Museum. Second Series. Four vols. 8vo. Harding and Lepard. 1827.

THE favourable manner in which Mr. Ellis's First Series of *Original Letters* was received has, fortunately, stimulated him to collect and publish a Second; and as such documents are of the utmost value in an historical point of view, we hasten to make our readers acquainted with their merits.

Upon the importance of contemporary Correspondence for the illustration of history, there can scarcely be two opinions; but it is not so much from the mere official letter from one minister to another, or from a minister to an ambassador, that the real merits of political transactions are to be elicited, as from their private communications; and still more, from domestic letters, by which expression we mean all letters not of a public nature, and, of course, letters between relations and friends. The former merely inform us of a certain fact, or of the commands or wishes of the sovereign upon some particular circumstance; but from the other, besides the picture which they exhibit of the manners and customs of the period in which they were written, we often learn the secret causes in which political events had their source; and the machinery by which they were accomplished. Sometimes, too, they present us with the opinions of contemporaries upon their merits, and the motives of the individuals connected with them: in a word, private letters draw up the political curtain, and the intrigues of courtiers, or the treachery of statesmen, are frequently exhibited to our view in all their truth and deformity. Independently of these claims upon our attention, familiar correspondence possesses a charm, inferior only to autobiography, of the nature of which it indeed often partakes; for besides containing all which the generality of readers care to know of past ages, there is an indescribable pleasure in exploring the real merits of those transactions in our history of which all have read, and of prying into secrets which were never intended to be divulged.

As sources of information on history and biography, as well as on the morals, customs, and manners of society, "Original Letters" are beyond all comparison the most accurate and valuable. We have, as it were, the testimony of witnesses to guide our judgment; and though, it is true, we do not possess the means of subjecting them to an advocate's greatest resource, a cross-examination, they are not, on the other hand, intimidated by the brow-beating of juridical assurance, agitated by appearing in a crowded court before an appalling array of wigs and gowns, or terrified at the awful solemnity of the judgment-seat. They deliver their evidence in a cool and unembarrassed manner; and having no inducement to assert what is false, unless they are written with some obvious purpose, they tell us what they believed to be true, occasionally alloyed however, as all human conduct must be, by misconceptions or erroneous conclusions. Thus, private letters are infinitely more valuable than official correspondence; for though the latter may not always give a false account of the actions or motives of

sovereigns or statesmen, or from considerations of political expediency, either state what is false, or give improper colouring to what is in itself true; they are at all times cold, formal, and repulsive. We peruse them, because it is necessary for historical purposes that we should be acquainted with their contents; but we are always glad when we arrive at the signature, and eagerly seek relief from their petrifying style, in the natural, unreserved, and interesting, communications of friendship.

For these reasons, although numerous, we had almost said innumerable, volumes of "Original Letters" have, at different times, been published, those only have become popular which abound in private correspondence; and profiting by a knowledge of this circumstance, Mr. Ellis has wisely formed his valuable collection much more of private than of public letters, though he has not failed to introduce such of the latter as appeared to him to be of peculiar interest.

Mr. Ellis's *Second Series* commences with a letter from Reginald lord Grey, of Ruthyn, to Henry V., when prince of Wales, relative to the breaking out of Owen Glyndowr's rebellion, in 1400, and terminates with a letter from Mr. Burke to Mr. Wilmot, in 1795, thus embracing a period of very nearly four hundred years. In estimating the judgment of the Editor in extending his collection over so extensive a space, it is but fair to consider his plan. We mean no disrespect to him when we say that we presume it was his chief object to produce a work which would be popular, or in other words, which would sell; and though he properly resolved that even the dullest antiquary of the dullest of all societies should occasionally find food suited to his palate, that resolution was subservient to the grand outline of his arrangement, and he has therefore provided entertainment for all classes. The reader whose historical inquiries do not extend beyond the reign of George I. would not purchase a collection which ended with that of Charles II.; and at the same time that the taste of those who care little for events after that period has been catered for, the more modern investigator has not been neglected. Thus Mr. Ellis has fluttered like the bee over the sweets of the garden which is committed to his superintendence; sucking now from this, now from that flower, such treasures as suited his plan; here a bit for the antiquary of the fifteenth, and there a morçeau for him of the sixteenth, century. Another flight stored him with a fragment, redolent of dust, for a third class; and having no other object in his excursions than what would be agreeable to the public, he had little besides

mere mechanical labour to undergo in providing materials for the volumes before us. If what he found would not do for the historian, it perhaps suited the literary antiquary; but if too trifling even for him, it might amuse the general reader. His work, then, is an historical melange for both sexes and all ages; a piece of literary mosaic, which must be viewed as a whole to be judged of with fairness; and though we know that this "Series" has been looked upon as wearing too much the appearance of "book-making," we defend Mr. Ellis from the reproach, because it was manifestly his object to make a book which would be read. He knew, or if he did not, there is scarcely a single author who has written on English history, or in illustration of history, but would have told him, that if he had imitated any former editor of a similar work, by confining himself to a particular plan or a particular period; if he had selected only what was valuable, and omitted what is simply "*amusing*," instead of realizing a handsome remuneration for his labours, he would in a few months have seen no other bills than those of his printer and stationer. He has then, wisely, for his pocket at least, preferred a little reputation and a great deal of money, to no money and an abundance of fame; but he must be contented to submit to the suspicion of having coquetted with the book-buyers, and submitted not a little to the dicta of the book-venders. There is an air of quackery in his notes, which is totally irreconcileable with the situation which Mr. Ellis occupies in the literary world, and which can only be explained by attributing it to too familiar an association with his publisher. Of the merits of those notes we shall have further occasion to speak, and in citing them exactly as they occur, we shall exhibit the "Warren's Blacking" system which he has unfortunately imitated; but our remark equally applies to the typographical flourish of trumpets with which every thing that is at all extraordinary is introduced. Large capitals and small capitals, stars, and notes of admiration, glitter in overwhelming profusion; and the innumerable changes which are rung upon them would throw even the composer of bills for Hunt's roasted coffee into despair. The sooner a disagreeable duty is performed, the better for both parties; and, in proceeding to select from these volumes such extracts as are most important and interesting, we shall present our readers with ample means of estimating the merits of Mr. Ellis's labours.

All the letters of the reign of Henry IV. relate to Owen Glyndowr's rebellion: "they are in number," Mr. Ellis says, "fourteen, and are, with one exception, new to history." Lord Grey, of Ruthyn, having been ordered to proceed against the

Welsh, he wrote to the prince of Wales, afterwards Henry V., acknowledging the receipt of that order, and requested "a moore pleyner commyssioun then I have yit, to taken hem in the Kynges grounde, other in the erles ground of the marsh, other in the erles of Arundele, or in any lordes ground of North Wales;" and after assuring the prince that he will do every thing in his power, adds, "but worshipfull and gracious lorde, ye most comaunden the kynges officers in every countree to do the same." Lord Grey then says, that at the same moment he received the king's despatch, "the strongest thiefe of Wales" sent him a letter, which he incloses, and to which we allude, because the extract which Mr. Ellis has given from it, shows that it was concluded in rhyme, an anomaly which the editor has not only omitted to point out, but he has differed from the MS., by commencing the words, which, if placed as rhymes, would begin each line, with a small letter instead of a capital. The "strongest thiefe of Wales" was, we are told, "Griffith ap David ap Griffith, one of Glyndowr's most strenuous partisans. His epistle, indeed, is of a barbarous character, and breathes more of savage warfare than of chivalry." After denying that he had ever violated the king's laws, he complains that Grey's men "hath stolle our horses out of our park, and thou recettour of them, we hope that thou and thy men shall have that ye have deserved. For us thinketh, though John Welle hath done as thou aboven has certified, thinketh that that should not be wroken toward us:

"But we hope we shall do the a privy thing;
A rope, a ladder, and a ryng,
High on gallows for to henge;
And thus shall be your endyng;
And he that made the be therto helpyng;
And we on our behalf shall be well willyng,
For thy lettre is knowledging."

"Written," &c.—Vol. i. p. 5.

Another letter from Ap Griffith to Grey is properly inserted in the text, in which he defends his own conduct, again complains that Grey's men had stolen his horses, and thus concludes:—

'And hit was told me that ze ben in purpos for to make zour men bran and sle in qwade soeuer cuntre that I be, and am sesened in. With owten doute as mony men that ze sleu and as mony howsin that ze bran for my sake, as mony wol I bran and sle for zour sake; and doute not I wolle haue both bredde and ale of the best that is in zour lordschip. I can no more, but Gode kepe zour worschipfull astate in prosperite.'—Vol. i. p. 7.

Mr. Ellis's notes to the letters relative to Glyndowr are valuable; but the chief fact of historical interest connected with them is that Henry V. went in person to the war in Wales. This appears from a letter "Depar le Prince" dated at Shrewsbury, on the 15th of May 1401, in which, "by way of news," he states, that he had been lately informed, that Owen de Glyndowr had assembled his forces, and those of other rebels adhering to him, to a great extent, proposing to march, or set out,* and also to fight, if the English resisted him, for so he avowed† [not "vaunted to his people:"] "wherefore we took our forces, and marched to a place of the said Oweyn, well built, which was his principal mansion, called Saghorn, where we thought we should have found him, if he had an inclination to fight in the manner he had said; but on our arrival there, we found nobody [no one], and therefore caused the whole place to be burnt, and several other houses near it belonging to his tenants. We thence marched straight to his other place of Glyndowry to seek for him there, and we caused a fine lodge in his park to be destroyed by fire, and laid waste all the country around" [Vol. i. p. 12]. The prince then says, they halted there all night; that several of his people having sallied into the country, they captured one of Owen's chieftains, who offered 500*l.* for his ransom to preserve his life, which sum he promised to raise in a fortnight; but the proposal was not accepted, and he was put to death with several others who were made prisoners on the same occasion. One of the prince's esquires was sent with the letter; and as a specimen of the way in which such documents were concluded, and the great similarity in this respect between ancient and modern despatches, Henry's exact words will be quoted: "And in order to give you full intelligence of this march of ours, and of every thing that has occurred here, we send to you our well-beloved esquire, John de Waterton, to whom you will be pleased to give entire faith and credence in what he shall report to you touching the news above mentioned" [Vol. i. p. 13]. And again in a letter to the king, from Hereford, announcing the defeat of the Welsh on the 11th of March, 1405: "And to inform you fully of all that has been done, I send you a person worthy of credit therein, my faithful servant, the bearer of this, who was at the engagement [fait], and performed his duty well, as he has always done" [Vol. i. p. 41]. Thus, too, Edward the Black Prince, after the

* Chivachier, aller à cheval, marcher. Chevauchée, course faite à cheval, *Roquefort.* Mr. Ellis has rendered it "to commit inroads."

† Avantoit, avanter, alleguer des raisons. *Ibid.*

battle of Poictiers, sent his dearly-beloved batchelor sir Neel Loring, his chamberlain, with a letter to the mayor and citizens of London, with news of that event, "who, having full knowledge of the circumstances, would more plainly inform you than we can write," whilst in his communication of it to the bishop of Worcester, he says, "The names of those taken and killed, we send you by our very dear batchelor sir Roger de Cottesford, the bearer of these."* The only difference in this respect between the despatches of those times and of the present is, that "the bearer" is now generally recommended to "your lordship's protection," and obtains promotion, and sometimes also a handsome gratuity in money.

A letter from the mayor and burgesses of Cairleon to those of Monmouth presents a singular proof of Owen Glyndowr's superstition. The editor has justly observed, "Henry IV. and Glyndowr were both worked upon by ancient predictions, and each, it is possible, sought the type of the other in those numerous prophecies which our ancestors in the 13th, 14th, and 15th centuries were so fond of considering as in a state of progressive accomplishment."

'And fforthermor we do yow to understonde that Oweine the ..... es in the ton of Kairm'then he sende after Hopkyn ap Thomas of Gower to come and speke with hym upon trewes; and when Hopkyn come to Owein, he preiede him, in as meche as he huld hym maister of Brut,† that he should do hym to understonde how and what maner hit schold be falle of hym; and he told hym wittliche that he schold be take with inne a bref tyme; and the takyng schold be twene Kayrmerthen and Gower; and the takyng schold be under a blak baner: knowelichyd that thys blake baner scholde dessese hym, and nozt that he schold be take undir hym.'—Vol. i. p. 23.

We notice a letter in p. 25 from sir Edmund Mortimer to his tenants, announcing his coalition with Owen Glyndowr, to which Mr. Ellis has added some useful remarks, showing, that it proves the error into which several of our historians have fallen in considering that Edmund earl of March was taken prisoner by Glyndowr, instead of his uncle sir Edmund Mortimer, because we wish to correct an error of some importance in the translation. It commences, "Treschiers et bien amez vouz salue mielx souvent, et vous face a entendre que Oweyn Glyndor ad moeue une querelle, la quelle est tielle, qe si le Roy Richard soit en vie de luy restorer a sa coronne, et sinoun qe mon honore Neuewe q'est droit heir al dit coronne sorroit Roy d'Engleterre, et qe le dit Oweyn *avoreit* son droit

* *Archæologia,* Vol. i. p. 213.

† Said by the editor to mean "skilled in the prophecies of Merlin, whose vaticinations form part of the Brut of Geoffrey of Monmouth."

en Gales;" which Mr. Ellis has translated, "Very dear and well-beloved, I greet you much and make known to you that Owen Glyndowr has raised a quarrel, of which the object is, if king Richard be alive, to restore him to his crown; and if not, that my honoured nephew, who is the right heir to the said crown, shall be king of England, and that the said Owen will *assert* his right in Wales." Without expressing our doubt of the accuracy of the version given to the first line, we must be allowed to consider that the sense of the last is entirely mistaken. It clearly means, that whilst sir Edmund's nephew was to have the crown if Richard was dead the doubt expressed about which is singular, Owen was to *have* his, *i. e.* Owen's, right in Wales. This is not only evident from the word "avoreit" *i. e.* avroit, but from the extract introduced by the editor into a note which follows the letter from an inedited writer contemporary with the time, describing the proposed division of the kingdom in 1403: "Item, inter eosdem Dominos unanimiter conventum et concordatum existit, quod prefatus Owinus et hæredes sui *habeant* totam Cambriam sive Walliam," &c. [Vol. i. pp. 24—28]. An error of the same kind, but, if possible, more flagrant, occurs in the translation of a letter in a subsequent page, in which the writer states that Hardelayn castle was "en grand peril," and adds the usual expression of "que Dieu pour sa mercie la sauve." This is rendered, "The castle is in *great jeopardy*, which God in his great mercy *avert*." These, and similar mistakes, could only have arisen from carelessness, or, to use a milder word, haste; for, elsewhere, Mr. Ellis displays his superior knowledge of the Norman French, by accusing Mr. Luders, who had "imperfectly translated" a letter which occurs, of misunderstanding some part of the original. In taking leave of the series of letters connected with Owen Glyndowr, we have only to remark, that they supply one or two facts in the history of the war waged against him; that they display the ferocity with which it was carried on by both parties; and, as would naturally be expected, afford some interesting information on the manners and feelings of the age. They possess, however, other claims to attention: with very few exceptions, they are the only specimens which exist of the epistolary correspondence of the early part of the fifteenth century, and contain evidence that the chieftains of the barbarians of the mountains of Wales possessed infinitely more talent than has generally been ascribed to them, and were not behind their more civilized contemporaries in literary attainments. Griffith ap David's letters are forcible and intelligent; and are fully equal in literary merit to those of prince Henry himself. On this part of his work the editor has

bestowed very creditable labour, as his notes evince considerable research.

The earliest letters of the reign of Henry V. are the confession of Richard, Earl of Cambridge, and his solicitation for pardon, in 1415; but as they were printed by Rymer, many of our readers are probably well acquainted with their contents. In a note to these letters, Mr. Ellis has pointed out the singular fact of a peer, the Earl of Salisbury, having been first executed, and then tried, or, as he has flippantly expressed it, "who, by an oversight of the Commons, was not tried till after his execution" [Vol. i. p. 49]. This, however, is not a true statement of the fact. The Earl of Salisbury was taken in an open act of rebellion, having, with other powerful personages, raised a large force, with the view of replacing Richard II. on the throne, and on his party being routed, he and his colleagues were, in strict accordance with the custom of the times, immediately put to death. On the Rolls of the next parliament after their execution, namely, in January, 1400, the following entry occurs: "Item fait a remembr' que la ou Thomas Holand jadys Johan Holand jadis Count de Huntyngdon, *Johan Montagu jadys Cont de Sarum,* Thomas jadis Sire le Despencer, et Rauf Lomley chivaler, nadgaires en diverses parties d'Engleterre soi leverent et chivacherent de guerre, traiterousment, encontre notre Seigneur le Roy, et encontre lour ligeance, pur destruire notre dit Seigneur le Roy, et autres graundes du Roialme, et le dit roialme de gentz d'autre lange entrebiter, en lour dite leve de guerre par les loialx lieges notre dit Seigneur le Roy feurent prisez et decollez; et partant toutz les Seigneurs temporelx esteantz en Parlement, par assent du Roy declarerent et adjuggerent les ditz Thomas, Johan, Johan, Thomas, et Rauf, pur traitours pur la leve de guerre encontre lour Seigneur liege suis dit, et q'ils forfairent come traitours toutz lour terres et tenementz queux ils avoient en fee simple le quinte jour de Janver [the day on which they were beheaded] en la veille del fest de la Tiffanie nostre Seigneur Jehu Crist, l'an du regne notre Seigneur le Roi suis dit primer, ou puis, come la ley de la terre voet; ensemblement ove toutz lour biens et chatelz, nounobstant q'ils feurent mortz sur le dit leve de guerre saunz processe de ley."—*Rot. Parl.* Vol. iii. p. 459.

It is therefore evident, that so far from these noblemen, "by an oversight of the Commons," not having been "tried till after their execution," no trial ever took place; but as their treason was notorious to the world, parliament declared them to be traitors, and their possessions forfeited, for having "leverent et chivacherent de guerre, traiterousement encontre notre Seig-

neur le Roy nounobstant q'ils feurent mortz sur le dit leve de guerre saunz processe de ley;" thus admitting that they were put to death without legal process, which process the declaration does not attempt to supply, but merely enacts the same penalties upon the offenders as if they had been regularly tried and convicted.

The next letter is signed "Youre humble *preest* of Durham," which Mr. Ellis considers was the signature of the Bishop of Durham; and he has laboured hard to prove that it was one "frequently used by bishops in early times;" but neither of the authorities he has adduced are exactly in point. That the letter in question might have been from the bishop of Durham, we do not deny: all we controvert is, the assertion that such was "frequently" the signature of prelates in early, or, indeed, in any, times. Perhaps we should not have noticed the remark, did we not object wholly to such general assertions, when, as in this case, they are not borne out by the fact; and, more than all, because we have no reliance upon Mr. Ellis's interpretation of doubtful signatures; since we find in his *First Series* a letter with the signature of "Quoth Bathon," a subscription which does not occur in the MS. whence it is professedly copied, and we defy him to adduce another instance of a letter being so subscribed. Few things are so reprehensible in an editor as an indulgence in guesses, a propensity to which, we fear, Mr. Ellis is sadly addicted; for the letter to which he has affixed "Quoth Bathon" is signed with a Christian name before the word "Bathon," which does not agree with the received statements, that at that time *Oliver* King filled the See of Bath: hence the prenomen is quietly converted into "Quoth." Of the other letters of the reign of Henry V., the most interesting is one from John Alcetre to that monarch from Bayonne, in 1419, because it affords information on a subject to which few Englishmen can be indifferent, the navy of that reign. It appears that the mayor and corporation of Bayonne had contracted to build a ship for the king, and Alcetre, after having inspected the frame, made his report on the subject. He says, "At the makyng of this letter yt was in this estate, that ys to wetyng xxxvj. strakys* in hyth y bordyd, on the weche strakys byth y layde xj. bemys; the mast beme ys yn leynthe xlvj. comyn fete, and the beme of the hameron afore ys in leynthe xxxix. fete, and the beme of the hameron by hynde is inleynthe xxxiij. fete; fro the onemost ende of the stemne in to the poste by hynd ys

* The editor has explained "strakys" to be "stretchers or *stretching pieces*," but he is mistaken: strakys means simply *streaks*, the timbers, to which the planks are afterwards affixed.

in leynthe a hondryd iiij^{xx}. and vj. fete; and the stemne ys in hithe iiij^{xx}. and xvj. fete, and the post xlviij. fete; and the kele ys in leynthe a hondryd and xij. fete: but he is y rotyt, and must be chaungyd" [Vol. i. p. 69]. There is no part of antiquarian studies of which so little is known as of the size and equipment of our navy at early periods; and as ample materials for the purpose exist, it is extraordinary, that, in a country which depends for its political existence on its marine, so little should have been done on the subject. Mr. Ellis has given a list of Henry's royal navy, which was printed by Bree many years since; and, as will afterwards be observed, he has also inserted some highly interesting particulars of the navy of Henry VIII. In a note to that letter, the editor has introduced one "from an English agent in Spain to one of the chancellors of Henry V.," and as it is equally as valuable as any in the text, it is impossible even to imagine the rule which Mr. Ellis prescribed to himself in his choice as to what were to form the text, and what should be merely inserted in the notes. If, as it is but natural to suppose, their relative value was the criterion, we must be allowed to say, that his estimate is often fallacious, for many of the most interesting in the work are printed in the smallest type as illustrations to those of much less utility. Of the justice of our remark, the one just noticed, and that of Griffith ap David ap Griffith, before quoted, are sufficient proofs. The same error in judgment occurs with respect to a letter from Sir William Bardolf to Henry, on Corpus Christi day, 1416, relative to the government of Calais, which does not contain a single line of the least importance, unless the statement, "that in as myche as the governaunce of the Frynche party her has ben and ys, duryng the abstinence of werr viij dayys weynyng in to thys tyme, merveylous and wondirfully unstabil in diverse wise, to gret hyndryng and harm of zowr liege puple,"* can be so considered; whilst, in the introductory note, he gives a passage from one of infinitely greater interest, as it details, in the strongest language, the misery and discontent of the garrison from poverty, in consequence of the non-payment of their wages. A letter of news from a soldier at Evreux is not a little deserving of attention, for it informs us of a proposed interview between Henry and the Dauphin, at the request of the latter, "yn sum convenable place betwene Evereux and Drewys," on the third Sunday in Lent, but that the "Rewle Regent hathe broke the seuretee abovesaide, and made the kyng a *beau*

* Vol. i. p. 75.

niente." He adds, "Cirtes alle the ambassadors, that we dell wyth, ben yncongrue, that is to say, yn olde maner of speche yn Englond, 'they ben double and fals,' whyth whiche maner of men I prey God lete never no trewe mon be coupled with." The writer's dislike of his situation is thus expressed: "More write y not at thys tyme: bote y prey yow ye prey for us that we may come sone, oute of thys unlusty soundyours lyf, yn to the lyf of Englond" [Vol. i. p. 78.] The discontent felt by Henry's army during his French wars has been established by irrefragable evidence; and Mr. Ellis has inserted a copy of an information against a person for speaking disrespectfully of the King, who was, in consequence, committed to the Fleet, which, he considers, "showed some discontent at the glory which the King and his army were in search of;" a construction wholly unwarranted by the record; but as it presents a specimen of what was held libellous in 1419, we will enable our readers to judge for themselves:—

'"Raulin Kyrkeby of Sandewych shipman, and William Buryman of Ertyngdon, witnessyt and recordyt that Harry Glomyng haberdasher axyd of the same Raulyn where the King of Ingelond lay; and the forsayd Raulyn ansuerde and seyde that he lay atte Sege before Roon. "What doth he there?" seyde the forseyde Harry; "for and y were there with iij M. men of armys," seyde the same Harry, "y wolde breke his Sege, and make hem of Roon dokke hys tayle." And fordermore he sayde that he vere not able to abyde there, were hit not that the Duk of Borgoyne kepte his enemyes fro hym. And he seyde thys wordys atte Ertyngdon, in the house of the forseyde William Burgman, a morwe after Seynt Mathew the Apostel, the sexte yere of owre Lorde the Kyng that now ys, that God save."

"Upon the back of the original of this Information, a memorandum is made, that upon the 24th of October following, the said Glomyng, for uttering these words, was committed by the King's council to the prison of the Fleet."'—Vol. i. p. 78.

Before closing our notice of "Letters of the Time of Henry the Fifth," it is necessary to point out an absurdity which the editor has committed, from a mistaken zeal to correct historians. Dr. Lingard has unfortunately said, "In the Rolls the capture of Oldcastle seems to be attributed to Lord Powis; but Hearne has published a writ, dated December 1st, in which it is expressly asserted that he was taken by Sir Edward Charlton." The Editor says, "the fact, as we learn from the following letter, written by the very person who took Sir John Oldcastle, is, that Sir *Edward Charlton* and Lord *Powis* were the same person" [Vol. i. p. 87.] This "fact" was known to every one who has taken the trouble to open Dugdale's Baronage, in the very index to which is "Charlton Lord Powys," under which title

that eminent writer remarks, "In the 5 Hen. V., being very active for the apprehension of sir John Oldcastel, then reputed an heretick (who was taken in his territory of Powys), had the thanks of the Parliament then held for that great service" [Tome ii, p. 72.] So much for Mr. Ellis's *discovery!* His description of some executions has, however, more claim to originality; for surely no other writer could relate an event in so elegant or nervous a style.

'Sir John Oldcastle's execution was attended with circumstances of unusual barbarity. He was burnt, suspended by chains from a gallows. Till burning became a more frequent punishment for heretics, the mode appears to have varied. In one instance, in the reign of Henry the Fourth, the sufferer was inclosed in a cask. Prince Henry, afterwards King Henry the Fifth, was present at the execution, and hearing the wretched lowing of the victim in the barrel, ordered the fire to be drawn away, and the cask to be opened, offering the half dead sufferer his life, and a daily allowance of three-pence from the Exchequer, if he would recant. The heretic refused. He was again inclosed in his cask, and consumed.'—Vol. i. p. 89.

These details are taken from Walsingham, who, it would seem, rather than Mr. Ellis, has the merit of that important discovery in natural history, that a man inclosed in a cask and surrounded by fire loses the power of uttering human cries, and adopts those of a *cow*, by *lowing*. His words are, "*Quapropter* DOLIO INCLUDITUR, *affligitur a devorante flamma,* MUGITQUE *miserabiliter inter incendiam.*" Whether to *low* is the happiest translation of *mugio* in that sense, it is not necessary for us to determine.

Of the reigns of Henry VI. and Edward IV., sixteen documents occur, all of which are called "Letters," but however interesting they may be, eight of them are merely *Petitions.* The first is a petition from Thomas Hostell, a soldier who had been wounded at the siege of Harfleur, being

'Smyten with a springolt* through the hede, losing his oon ye, and his cheke boon broken; also at the bataille of Agingcourt, and after at the takyng of the Carrakes on the see, there with a gadde of yren his plates smyten in sondre, and sore hurt, maymed, and wounded; by meane whereof he being sore febeled and debrused, now falle to greet age and poverty; gretly endetted; and may not help himself; havyng not wherewith to be susteyned ne releved but of menes gracious almesse.'—Vol. i. pp. 95, 96.

In a note to a note, or sub-note, on a petition from Henry

* The Springolt was a dart, thrown from the Espringal, and had brass plates instead of feathers, to make its flight steady.

Beaufort, bishop of Winchester, requesting permission to go on a pilgrimage, the Editor has re-printed a curious letter from that prelate to the duke of Bedford, relative to the quarrel between Winchester and the Protector, as it occurs in Fabyan and Hall; but a much more perfect copy will be found in the Cottonian MS. Julius, B. I. The Letters written in the reign of Richard III are introduced by the following note:—

'Of the Letters of the reign of RICHARD *the* THIRD here laid before the reader, the chief are the King's own: but even in these there is a darkness and a mystery inconsistent with upright deeds. The impression which they make is bad: and leads us to suspect that future discoveries, whatever else they may develope, will do little to retrieve the character of Richard the Third from the odium so concurrently passed upon it by those who lived in his time.

'The disquiet of Richard's mind, his doubts, his apprehensions, his distrusts, are all visible in the documents of his last year, though sometimes attempted to be concealed under smooth and cringing expressions.

'The Instructions which he gave to "the Commissioners in every Shire" for raising forces against the Earl of Richmond, begin

'"Furst, that they, *on the King's behalf,* THANKE THE PEOPLE *for their* TRUE *and* LOVYNG DISPOSICION *shewed to his Highnesse the last yere,* for the suertie and defense of his moost royal persone and of this his Realme, against his rebels and traitors; exhorting them so to continue." Next, to review the persons raised, "and see that they be able men, and wele horsed and herneysed, and no rascal, and to endeavour them to encrease the numbre *by theire wisedoms and policies,* IF THEY CAN." Lastly, "to shewe all Lords, Noblemen, Captains, and other, that the King's noble pleasure and commaundement is, *that they truely and honorably all manner quarells, grudges, rancors, and unkyndnesse layed aparte,* attend and execute the King's commaundement, *and everyche be* LOVING *and* ASSISTING TO OTHRE *in* THE KINGE'S QUARELLES *and* CAUSE."*

'This is the language of a King who feels weak in the affections of his subjects.'—Vol. i. p. 146.

The first letter of the division appropriated to the reign of Richard III. is one from king Edward V., whilst of such as really relate to the reign of Richard, we do not find one indicative of "a darkness and a mystery inconsistent with upright deeds;" or which conveys any such impression as Mr. Ellis imputes to them. They are in number, seven: the first is from Richard to sir Ralph Hastings, lieutenant of Guisnes, desiring him to give credence to certain persons named "in suche thinges and newes as we have commaunded them to shewe on to you on our behalfe," and which Hastings was to communicate to

* See the Harl. MS. 433, fol. 274.

whom he thought proper: the next is to the lords of the council, informing them of the arrival of an "oratour of our cousine the queen of Hespana," and ordering them to adopt certain measures on the occasion: the third is from the Queen to Richard, stating that she had sent to him the ambassador just noticed, and which being signed "Yo la Reyne," caused the editor to enlighten the public with the following most erudite note: "'I the queen': this was the Spanish mode of affixing the royal signature to documents of state. Charles V signs a letter of credence sent to queen Catherine of Arragon, his aunt, in 1522, MS. Cotton. Nero, B. vii, folio 41, 'Yo el Rey:'" the fourth is from lord Dynham to the bishop of Lincoln, lord chancellor, announcing the death of Louis XI.; that the duke of Austria had "wonne" Utrecht; and some other news and reports on the continent: the fifth is from the king to the same prelate, dated at London, on the 12th of October, 1483, thanking him for his "manifolde presents;" acquainting him with his intention to march against his "rebelle traytour the duc of Bukingham," and desiring him, in consequence of his infirmities, to send the great seal to him; to which a postscript occurs in Richard's own hand, assuring him that he "wolde most gladly ye came yourself yf that ye may;" but if he could not, he was to obey the order expressed in the letter; desiring him to send him "your news," and stating that, "here, loved be God, ys all well and trewly determyned, and for to resyste the malysse of hym that hadde best cawse to be trewe, th'duc of Bokyngham, the most untrewe creatur lyvying, whom with God's grace we shall not be long tyll that we wyll be in that partyes, and subdewe hys malys. We assure you y^r^ was never false traytor better purvayde for, as this berrer Gloucestr' shall sheue you." [Vol. i. p. 160.]: the sixth letter alluded to is from Richard to his mother, from Pomfret, in June, 1484, begging her to appoint his chamberlain to be "her officer in Wilshire," and telling her that she would learn "suche news as ben here" from the bearer: and the last is from Richard to his chancellor, sending him a copy of the proclamation against the earl of Richmond and his followers, to which he was to affix the great seal, and to send a copy of it to the sheriff of each county. That proclamation is remarkable for accusing Henry of having purchased the assistance of the king of France, by agreeing to relinquish all right on the part of England to the French crown, the Duchy of Normandy, Anjou, Maine, Calais, Guisnes, Hammes, and the Marches, and "to dessever and exclude the armes of Fraunce out of the armes of England for ever."—Vol. i. p. 164.

It is the fashion to consider Richard III. as a monster,

surrounded by "darkness" and "mystery," incapable of "upright deeds;" and, in short, the personification of every vice, without one counterbalancing virtue. Whether this character of him is just or false, it is not our intention to inquire; but we protest against an historian perverting every letter or other document bearing Richard's name into evidence of his villany, when, as in the case before us, they do not contain one passage, nay, one word, which admits of such a construction. It is the duty of an editor rather to stem, than to be borne away by, the current of popular prejudice; and when, instead of doing so, we find him bending the most innocent actions into proofs of the justice of charges, which, to say the least, are doubtful, it is impossible to refrain from using strong expressions of censure and reprobation. All the letters from Henry VII., relate to various payments, and are of little value, excepting one letter, which the editor elegantly says, "gives us a sample" of the king's economy.

The correspondence of the reign of Henry VIII. is voluminous; but though curious, and occasionally useful to writers on that period, it does not contain many articles of historical importance. Perhaps the most interesting among them is the copy of his coronation oath, with Henry's own alterations, a fac-simile of which forms the frontispiece to the first volume. The words embraced in crotchets and carets were interlineations of the king—those in italics and crotchets were erasures.

"The Othe of the Kings Hignes ʌ[at every coronation.]ʌ [*This is the oth that*] the King shall ʌ[then]ʌ swere [*at his coronation*], that he shall kepe and mayntene the ʌ[lawful]ʌ right and libertees [*of Holie Church*] of olde tyme graunted by the rightuous cristen Kings of Englond: ʌ[to the Holy chirche of Ingland not prejudyciall to hys jurysdiction and dignite ryall and that he]ʌ shall kepe all the londs honours and dignytes rightuous and ʌ[fredommes]ʌ of the Crowne of England in all maner hole without any maner of mynysshement; and the rights of the Crowne hurte, decayed, or lost, to his power shall call agayn into the anncyent astate; and that he shall ʌ[indevore hymself to kepe unite in hys clergye and temporell subjects]ʌ [*kepe the peax of the holie churche, and of the Clergie, and of the people with good accorde;*] and that ʌ[he shall accordyng to his consienc]ʌ [*he shall do in*]ʌ[all]ʌ his judgements ʌ[mynystere]ʌ equytee [*and*] right ʌ[and]ʌ justice, ʌ[shewyng wher is to be shewyd mercy]ʌ [*with discretion and mercye;*] and that he shall graunte to hold the lawes and ʌ[aprovyd]ʌ customes of the realme, and ʌ[lawfull and not preiudiciall to hys owne or imperiall duty]ʌ to his power

kepe them and affirme them which the ▲[nobles]▲[*folk*] and people have made and chosen; ▲[with hys consent]▲ and the evill Lawes and customes hollie to put out; and stedfaste and stable peax to the people of his realme kepe, and cause to be kept to his power ▲[in that whych honour and equite do require."]▲

A letter from Sir Edward Howard to the king in 1513, is illustrative of Henry's attention to naval affairs; and the long account of the fleet of the time which Mr. Ellis has introduced in a note to it, from a roll in the British Museum, affords much information on the subject. Howard's letter is a report of the respective merits of the ships in a squadron sent on a cruize in the Channel; and it appears that the king was so much interested in the subject, that the admiral was ordered "to send your grace word how every shipp dyd sail." Howard subscribes himself "your moost bownden subject, and your poor admerall." The fate of that gallant knight renders every document connected with him deserving of attention; and as few of our readers are likely to read "Wills," the following singular passage in that of Sir Edward Howard is here introduced for their amusement, and also because it is slightly connected with the letter alluded to, and presents a curious specimen of the manners of the period. He says, "Whereas that I have two bastards, I give the king's grace the choice of them, beseeching his grace to be good lord to them, and that when he cometh of age, he may be his servant; and him that the king's grace chooseth, I bequeath him my bark called 'Genett,' with all apparel and artillery, and fifty pound to begin his stock with: the other I bequeath to my special trusty friend Charles Brandon [afterwards duke of Suffolk], praying him to be good master unto him, and for because he hath no ship, I bequeath to him C marks, to set him forward in the world." Perhaps the most entertaining letter of the series is from the Earl of Worcester to Cardinal Wolsey, after the marriage of Henry's sister Mary with the king of France, explaining why the French monarch had dismissed lady Guildford, or, as she was called, "mother Guildford," and nearly all the females of the English retinue of his bride, the morning after their union; and which we shall insert at length.

'Myne especiall goode lorde, I hertely recommaund me unto you. The ij^de^ daye of this present monethe I receyved your letter dated at Eltham the xxij^th^ daye of October, by the wiche I perceyve and knowe the King my Soverain Lordes mynde and plessour what I shuld do touching the retorne of my lady Gilford. Also what your mynde is that I shuld do for your mater of Tournay. My good Lord, as

touching the retorne of my lady Gilford, I have doon to my power and in the best waye that I cowde to the Frenche King; and he hathe aunswerd me that his wife and he be in good and perfaite love es ever any two creatures can be, and bothe of age to rewle them selfe, and not to have servantes that shuld loke to rewle him or hur. If his wife nede of counsaill or to be rewlid, he is able to do hit; but he was sure it was never the Quenes mynde nor desire to have hur ageyn, for assone as she came a lond, and also whan he was maried, she began to take uppon hur not oonly to rewle the Quene, but also that she shuld not come to hym but she shuld be with hur; nor that noo Lady nor Lord shuld speke with hur but she shuld here hit; and began to sett a murmure and banding amonges Ladies of the Court: and than he sware that ther was never man that better loved his wife than he did, but or he wold have suche a woman abought hur, he hadde lever be without hur; and he said that he knewe well whan the king his good and loveng brother knewe this his aunswer, he wold be contentid; for in nowise he wold not have hur abought his wife. Also he said that he is a sekely body, and not at altymes that he wold be mery with his wife to have any strange woman with hur, but oon that he is well acquentid withall, afore whom he durste be mery; and that he is sure the Quene his wife is content withall, for he hathe sett abought hur nowder* lady nor gentilwoman to be with hur for hur Mastres, but hur servantes, and to obbeye hur comaundementes. Uppon which aunswere, seing he in no wise wold have hur, I aunswerd him agein soo that he was content, and soo I make noo doute but the Kinges Grace wold be, for the aunswer was well debated or I gave hit, es his grace and you shall knowe at my comyng, wiche I trust shal be shortly; for I purpose to departe homward the xijth day of this moneth: for all the charge that my felous and I, and also that I was chargid with my good Lord of Suffolk and my Lord Marquis, wol be doon and concluded asmocheas can be at this tyme, within this iij daies. Es touching your mater of Tournay, I did sende you from Abeville the letter directed to my Lady of Savoye accordinge to your desire, also the Electe was comaunded not further to medle nor noon of his Officers; and in lyke wise ther was a Letter sent to the Frenche Kings ambassadour at Rome noo further to medle ageinst you, and uppon your said last letter I have spoken to the said King according to your desire, and he is well content to recompence the said Electe, and hathe comaundid the said tresourer Robertett and the generall of Normandye to speke with the President of Parlement, fader of the said Electe, to aggree for the said recompence; wiche they wold doo without fawte this day or to morowe at the furthest; and also ther shall goo another Letter to his Ambassadour to Rome; and the said King badde me to sende him word that without faille the said Electe shall make al suche releas or writing as ye can desire for your suertye therof. Or ever I deperte I woll knowe a perfaite ende theryn,

* Neither.

and after the advyse and counsaill of master dean of Wyndesore I woll cause to be made writing, if he thinke that any may be made for your suertie, before ye sende to Rome; or else I woll order the mater soo that at altymes whan ye wol sende for them that ye shall have theym. My good Lord, the King here hathe desired me to write to you that he hertely desirs you that in his name ye desire his good brother and cousin, if God sende hym a sonne, that he may be godfader as he was last; for in soo doing he shall do hym a right great plessour. And he wol sende a good and honorable personage to be ther ageinst the Quenes delyverance, to represent his personne, and to do the acte in his name; also the said personne shal have auctorite to speke, comune, and conclude for ther metyng, and of other secrett maters. And of this he desires you that he may be ascertayned of his good brothars mynde and plesier be your writing; for assone as he hathe aunswer he woll dispache his said ambassadour. My Lord the Frenche Quene told me that she loved my lady Gilford well, but she is content that she come not, for she is in that case that she may well be without hur, for she may do what she wolle. I pray God that soo it may ever contynue to his plessour, whom I pray to have you, myne especiall good Lord, in his blessid keping. Wrettyn at Saint Denyse the vijth daie of November.

'Assurly yours to my power,

'C. WORCESTER.'*

To this, an extract of a letter from Louis to Henry, dated on the 28th December, stating his happiness with his sister, is a necessary addition :—

'J'ay par ce porteur votre Officier d'Armes reçeu les Lettres que m'avez escriptes du ixme de ce moys, et par icelles entendu le plaisir que vous avez eu d'entendre par mon Cousin le Duc de Suffort de mes nouvelles, et le contentement que j'ay de la Royne ma femme votre bon seur, laquelle s'est jusques icy conduycte et conduyt encores journellement envers moy de sorte que Je ne sauvoyr que grandement me louer et contenter d'elle; et de plus en plus l'aymer, honnorer, et tenir chiere, parquoy vous pouez estre seur que ma voulonte est et sera a jamaiz de continuer, et la traicter en toutes choses par façon quelle sen contentera et vous pareillement.'—Vol. i. p. 261.

The announcement of the confinement of the queen of Scotland, another sister of Henry, to his majesty, by lord Dacre and Dr. Magnus, is curious, from the way in which he speaks of Scotland; and not less so from the discovery of the editor, that "there is something arrogant, if not contemptuous in it," because lord Dacre and his colleague did not think it necessary to send a special messenger to Henry, to acquaint him with the event, and because he was not informed of the

* Vol. i. pp. 243—247.

name of the infant. The young stranger was the mother of Henry, lord Darnley, and grandmother of James I., and, consequently, the ancestrix of every succeeding monarch of this country.

To a letter from the duke of Bavaria, recommending Wolfgang Richart, who had perfected an *Opus Musicale,* Mr. Ellis has prefixed some valuable remarks on the musical instruments then in use, and on Henry's taste for music. He has shown that his majesty was both a composer and performer.

Of the battle of Pavia we have a minute account by sir John Russell, dated at Milan, on the 11th March; but it is too long for insertion. We learn from the editor's note, that the *First Series* of this work contains two letters on the subject; but he considered the event so very memorable, that it "has *something of a claim* upon the reader's *recurrence.*" [p. 296]. Two letters occur describing the interviews which Dr. Taylor, Henry's ambassador, obtained of Francis I. after that battle, which will repay the trouble of perusal. After Taylor had congratulated him, in the name of his sovereign, on his "retorne into his realme with liberte," he exhorted his majesty to confirm all which had been done by his mother, the regent, during his captivity. His reply strongly evinces his gratitude to Henry for his efforts in effecting his liberation:—

'His grace wolld suffer me to speke no more, but sayd, "Monsr. Ambassadour, I knowe well the good mynd of my kinde brother of England, whom, after God, I thanke of my liberte. He hathe done at this tyme in my captivite suche an acte by the whiche he hathe gatte eternel memory of glorye, and bownden me ever, and all myne, to do him servyce. And I adsure youe that after I had seyne hym and spoke with him, yf he ben no gentylman nor I nother, he was so affectionate that I wollde have doone hym servyce. And howebeyt that ther was war moved betwixt us, I know right well yt was but cerymonyusly doon; for yf he wolld have warred in dede, I shulld have fellt yt grevouslyer and much sorer. And yt wolld never sinke in . . my hart but that he loved me."' 'And as touching all suche things as wer concluded in his absence with Madame his moder, he wyll not only approve, ratyfye, and confyrme, but with the blode of his body mayntene. "And yf my brother of England can study any other way to make them strong, I wyll surely performe yt."'—Vol. i. pp. 335, 336.

The Second volume commences with a letter from Richard Fox, bishop of Winchester, to Cardinal Wolsey, in answer to some inquiries concerning Calais and its fortifications, dated at Winchester, the 30th April, about the year 1522. It seems that Henry having resolved to send commissioners to examine the state of the fortifications, &c. of Calais, Fox was com-

manded to repair immediately to the king, because he had "at sundry tymes taken travayle in the saide maters," and he was to bring with him certain books on the subject, which his majesty was informed were in his possession. Some passages in the old prelate's reply are of much interest:—

'My very singular good Lord, in my humblest wyse I beseche you that withowt your displeasor I may frely shewe you the trowble that your saide lettres hathe put my mynde in.

'Truely my singular good Lord, syns the Kynges Grace lycenced me to remayne in my chyrche & therabowts uppon my cure, Wherin I have be almost by the space of xxx yeres so negligent, that of iiij severall Chathedrall Chyrches that I have successively had, ther be two, *scilicet*, Excestre & Wellys, that I never see; and innumerable sawles wherof I never see the bodyes; and specially sens by hys licence I left the kepyng of hys Privy Seale, and most specially sens my last departyng fro your good Lordship & the Counsell, I have determyned, &, bytwixt God & me, utterly renouncyed the medlyng with wordly* maters; specially concernyng the werre or any thyng to it apperteignenge (wherof for the many intollerable enormytes that I have seen ensue by the said werre in tyme past, I have noo littell remorse in my conscience,) thynkeng that if I dyd contynuall penance for it all the dayes of my lyfe, though I shuld lyfe xx yeres longar then I may doo, I cowde not yit make sufficient recompense therfor. And nowe my good lord to be called to fortificacions of Townes, & places of Werre, or to any mater concerneng the werre, beyng of the age of lxx yeres & above, & lokyng daily to dye, the which if I dyd beyng in any such medlyng of the werre, I thynk I shuld dye in dispeyr. No marvayll my Lord, the premisses considered, if thys my present vocacion to such maters, trowble not a littell my spiritts. I fere that I shall not by raison therof be in such quyetnes that I shall dar say masse thies next v. or vi. dayes.

'And yet my nowne good Lord, I am not unremembred of my deutye towardes the Kyng my most drad kynde soveraigne Lord, the soon and successor of the Kyng that was my maker and promotor to the dignytie that I unworthely doo occupye; and to all that I have in erthe; and therfor if Hys Grace call or comaunde me to doo that thyng that may become soo old a preest to doo, verely my Lord to spend my lyve & all my pour substance I shall never refuse it; but by licence of your good Lordship the maters for the whych Hys Grace wolleth me to come to the same, be all of a nother sort, qualitie, & nature, it becommeth me noo thyng nowe to medle, neyther by way of counsell nor faict, wyth municions, or fortificacions of Townes & places of Werr.'—Vol. ii. pp. 5, 6.

He then denies that he was ever concerned in any proceedings connected either with Calais, Hams, or Guinnes, and urges new

* Worldly.

grounds for wishing to be excused from complying with Henry's commands :—

'Also my Lord, I have not soo sklenderly buyldyd my selve, nor soo weykly estableshed my house in thies parties, that I can honestely or conveniently so sodenly depart hens, nor incontynent come theder. I have also many causes in my handes bothe of correccions & justice, that if I shuld sodenly relinquyshe theme, I shuld unresonabely & inhonestly disapoynt many maters & persons, to my great rebuke & sclaundre. And oonys in xv. dayes I visit my Cathedrall Chyrche, & the Monasterye of Hyde, whych may not soo sodenly be discontenued.'

But with extraordinary inconsistency, after having urged that it did not become him to meddle with "municions or fortifications," he concludes his letter with the following advice :—

'Finally my Lord, I also beseche your good lordship, that in case thies advised fortificacions & municions of Calice and the other places, be ordeyned to be doo for suspicion of Werre or Siege, that then the reparacion and ryggyng of Ships be in lyke wyse avaunced, for if owr enemyes be lordes of the See, Calice may not long hold. In lyke wyse the Isle of Wyght whych hathe no Capitaigne bydyng wythin it, and is full sklendrely inhabit, and wors fortifyed & provyded of artillarye, and also Portesmowthe, shalbe oon of the fyrst thyngs that owr enemyes woll loke uppon; ffor as your good Lordship well knoweth, if the werre fortune, it shall do great service. And in thys partie I beseche you my Lord, to remembre the warant that I left wyth you for the wages of ij. goonners for the towre, & the blokehowse, and the keper of the brewe howses theer, whych must be regarded be it werre or peaxe. Thus doo I presumptuosely encombre your good Lordship wyth thies rude maters, but they be necessary; and I do make me sure ye knowe and considre the same better than I can wryte. And thus I shall daily pray the Holy Trinitie to send you, my Lord, as good lyfe and long as I wold wyshe to my self. At Wynchestre the last day of Apryle.

Yo^r. humble bedeman and preste,
Ri. Wynton.

We have a singular example of the rigid manner in which the property of travellers was searched in Spain, under Charles V. in a letter from a person in the suite of the English ambassador. After announcing the arrival of his master, with all the rest of his company at Valladolid, after "a long and a paynefull journey in sauftie without perishing of horse or man, thanks be to God," he says,

'We came into a citie called Seragoza, where we were extremely handeled as though we had been Jews. All our cariage was had home to the serch house, where all my Master's apparail and the gentlemens, with the rest of the servaunts were serched to th'utter-

most. They made us to pay for all things that were unworne. There escaped not somoch as a dossen of points. They be the spitefullest people in the world. We could have no favor amongs them. My Master told hem that he wold pay no custume; for it was limited that every Ambassador should goo and come fre in all places christened. All that wold not help. He told them he wold ride in post to th'Emperor without his commission, and declare unto him, he being an Ambassador, after what sorte he was handeled. They answered therunto and saide, that if Christ or Sanct Fraunces came with all their flock they shuld not eskape. Th'Emperes, but nowe of late, sent a Post to th'Emperor at Barsilona, with a litle Floure of silke, of her oune making, enclosed in a box, which she wold have had conveyed secretely: and as sone as the Post to the said Seragosa was come, they came to serch him. He wold have given them a hundereth crownes to have passed uncerched. They would not under a thousande; and whenne they had sene it, the thinge itself was not worth a cople of ducketts. They set as much by th'Emperors Lettres as they doo by myne.'—Vol. ii. pp. 39, 40.

The following account of a caricature, which was exhibited at Antwerp, of Henry and Anne Boleyn, in May, 1553, is too entertaining to be passed over:—

'It shall please the same to understonde howe that a naughty person of Andwarp resorted to this towne of Barowe this Pasche marte, with Images and Pictures in cloth to sell: among the which clothes he had the Picture of our soveraigne Lord the Kyng, (whom our Lorde preserve). And this day settyng up the same Picture upon the Burse to sell, he pynned upon the body of the said Picture a Wenche made in cloth, holdyng a paier of balance in her hands; in th'one balance was fygured too hands to geder, and in th'other balance a fether, with a scripture over her head, saiyng that Love was lighter then a fether, whereat the Spanyards and other of the Duche nacion had greate pleasure in deridyng, jestyng, and laughyng therat, and spekyng sondry opprobrious words ayenst his moost noble Grace and moost gracious Quene his bedfelowe.'—Vol. ii. pp. 43, 44.

Upon the representation of the Secretary to the Merchant Adventurers there, the public authorities interfered, and it was suppressed.

The first letter of the reign of Edward VI. is from William Thomas, clerk of the Council, presenting a list of questions in history and policy, for his improvement. Among the eighty-five sagacious queries which the young Edward was to answer, are, "Wheather is wiser and more constant, the Moltitude or the Prince?" "Wheather of the twoo is the more unkinde, the People or the Prince?" "Howe dangerouse it is to be the aucthor of a newe matter?" "Wheather ambitious men, mounting from one ambicion to an other, do first seeke not to be offended, and afterwards to offend?" "Wheather it be daungerouse to make him an

Officer that ones hath been misused?" "What is Fortune?"* and others no less calculated to puzzle an older and wiser head.

Among other schemes proposed at that time, a Thomas Barnabe suggested several methods for distressing the French. His garrulous and egotistical letter, in which they occur, is extremely curious; and though we have scarcely room to notice his plans, his sketch of the character of the Constable of France is so amusing, if not so just, that we cannot refrain from giving it to our readers:—

'As for the Cunstable, somwhat I can saye of hym; I thinke he be one of the doblest & dissemblingst gentelmen that is in the worlde; for there is no more assurance of his worde then to holde an ele by the tayle; but will speak fayre, & promise fayre, & worke the contrarye; and besyde all this I promyse you of my faythe, he is as popishe as I am Englishe.'

Barnebe's plan bears so immediately upon a question still agitated, the policy of exporting our commodities in English bottoms, that we shall allow him to explain his views in his own words:—

'I woulde wishe to God that we did knowe our owne strenght and poure, and what portes, bayes, and havens we have that other Realmes have not; yt is unknowen, but in all France be barde havens,† and yet by reason that they maintayne their fishinge and theyr thevinge, there is more maryners in one towne there, then is here from the landes ende to St. Mychelles Mounte. I have sene com owte at one tyde in Dieppe five hondred and fyve botes; and in everye bote x or xii men; the which was a marvelous matter to see, howe they be maintaynid by fyshinge, and what ritches theye gette by the See, and howe theye mantayne their townes and portes; and as for us, lette us begynne at Sandwiche, and goe to Dover, Hyde, and Hastings, & to Willchense, and se howe they goe downe for lacke of maintenance, and in a manner no maryners in them; which is for lacke of good pollicye to set them a worke, which Sir, yf yt please the Cownsell to understand those thinges that I will showe you, they shall sette vj or vij thowsand maryners a worke more than theris, in that thinge that France can lyve no more withowte, then the fyshe withowt water; that is to saye Newe-castell Coles; which withowte that, they can nother make stele worke, nor metall worke, nor wyer worke, nor goldsmythe worke, nor gonnes, nor no manner of thinge that passethe the fier. And as for them, ye shall se in peace time iij or iiij score of ships of Normans and Brytons at ones, as soone as theyr fishinge is done, and as theye be departed comethe as manye moe; so that I occupying savecondutyes in France, have bought coles at Newcastell for ij^{s}. & ij^{d}. a chauldron & for xiij^{teen} nobles have solde them agayne in France. Also the

* Vol. ii. pp. 189, 190.

† Havens having bars at the entrance.

Vice-amerall of Normandye, Mons^t. De May, and the Vicounte of Dieppe have prayed me to bringe in Newcastell Coles, and I shoulde have any other manner of comodyte that they hadde within the Realme, whether yt were poldaries for saylis, or any other thinge. Nowe, maye you see what a comodyte is this small thinge to this realme, soe that me semethe yf the kinges Majestie would take in these coles into his owne handes and lette no other ships but Englishe ships fetche them at Newecastell; and soe to bringe them into Kente, and make a staple in sutche place as shoulde be thought necessary, you sholde not only sette a wonderfull sorte of maryners a worke, but also it sholde be a greate strenght to the realme, and spetially to the cuntry of Kent; the which is verye lene of men by the see syde; consydering the premysses aforesayde of the goinge downe of the townes. Also it is not unknowen but that the Frenche kinge hath taken the salte into his owne handes & hathe gruntiers in every towne to sell yt to his proffyte. Nowe maye you waye that the one is vittaylle & the other is fuell, also is it but reason we shoulde avance our owne comodyte, as well as they do theyrs, to maintayne our owne subjectes withall. Also I woulde wyshe that their shoulde nother fuel nor vittayle goe owte of the realme but uppon Englishe botomes. Moreover I have sene goe owte at one tyde owte of Rie together xxxvij^tie Hoyes laden with woode and tymber, and never an Englishe maryner amongst them; which is a wonderfull dyscomodyte to this Realme. I have greate marvaile that these things have ben soe longe forgotten, which is soe necessary a thinge to be spoken of. And nowe Sir, I praye you, speke we of the citie of London, there be so many notable marchantes and ritche halles of landes; some maye spende viij hondred pounde, som vj hondred, som lesse and som more; and greate revenewe com to them yerelye for quartrayes and forfettes, which rysethe to no small som; and nothinge don withall, but make grete feastes everye monthe or vj wekes at theyr halles, and cause vyttailles to be dere; but yt myght be torned to a more honorabler use. Also yt woulde be a greate maintayninge to the kinges subjectes for every Crafte to have a Shippe to carye theyr marchandyses to and fro, to the greate avancement of the kinges honor and to theyr owne comodytes, &, yf chance sholde fall, which God forbydde, that a Ship sholde be loste, the Halles myght easelye bere the smartes therof. I thinke there is never a Cytie in Christendome, havinge the occupynge that this citie hathe, that is so slenderlye provided of Ships, havinge the See coming to yt as this hathe.'—Vol. ii. p. 198.

In the introductory note to "Letters of the Reign of Queen Mary," the editor has wisely introduced a copy of the "Report of the Sigr. Giovanni Michele," the Venetian ambassador, which he presented to the Doge and Senate on his return from his embassy in 1557, but it is too voluminous to enable us to do more than refer to it. A letter from the Princess, afterwards Queen, Elizabeth to her sister, Queen Mary, on her being ordered

to the Tower, in consequence of a suspicion that she was connected with Wyat's rebellion, is the only, and by far the most interesting, specimen which we can give of the letters of that reign.

'If any ever did try this olde saynge, that a Kinge's worde was more than another man's othe, I most humbly beseche your Majesty to verefie it in me, and to remember your last promis and my last demande, that I be not condemned without answer and due profe: wiche it semes that now I am, for that without cause provid I am by your Counsel frome You commanded to go unto the Tower; a place more wonted for a false traitor, than a tru subject. Wiche thogth I knowe I deserve it not, yet in the face of al this realme aperes that it is provid; wiche I pray God, I may dy the shamefullist dethe that ever any died, afore I may mene any suche thinge: and to this present hower I protest afor God (who shal juge my trueth, whatsoever malice shal devis) that I never practised, consiled, nor consentid to any thinge that migth be prejudicial to Your parson any way, or daungerous to the State by any mene. And therfor I humbly beseche your Majestie to let me answer afore your selfe, and not suffer me to trust to your Counselors; yea and that afore I go to the Tower, if it be possible; if not, afore I be further condemned. Howbeit, I trust assuredly, your Highnes wyl give me leve to do it afor I go; for that thus shamfully I may not be cried out on, as now I shalbe; yea and without cause. Let consciens move your Hithnes to take some bettar way with me, than to make me be condemned in al mens sigth, afor my desert knowen. Also I most humbly beseche your Higthnes to pardon this my boldnes, wiche innocency procures me to do, togither with hope of your natural kindnes; wiche I trust wyl not se me cast away without desert: wiche what it is, I wold desier no more of God, but that you truly knewe. Wiche thinge I thinke and beleve you shal never by report knowe, unless by your selfe you hire. I have harde in my time of many cast away, for want of comminge to the presence of ther Prince: and in late days I harde my Lorde of Sommerset say, that if his brother had bine sufferd to speke with him, he had never sufferd: but the perswasions wer made to him so gret, that he was brogth in belefe that he coulde not live safely if the Admiral lived; and that made him give his consent to his dethe. Thogth thes parsons ar not to be compared to your Majestie, yet I pray God, as ivel perswations perswade not one sistar again the other; and al for that the have harde false report, and not harkene to the trueth knowin. Therfor ons again, kniling with humblenes of my hart, bicause I am not sufferd to bow the knees of my body, I humbly crave to speke with your Higthnis: wiche I wolde not be so bold to desier, if I knewe not my selfe most clere, as I knowe my selfe most tru. And as for the traitor Wiat, he migth paraventur writ me a lettor; but, on my faithe, I never receved any from him. And as for the copie of my lettar sent to the Frenche Kinge, I pray God confound me eternally, if ever

I sent him word, message, token, or lettar by any menes: and to this my truith I will stande in to my dethe.

'Your Highnes most faithful subject
that hathe bine from the begin-
ninge, and wylbe to my ende,
'ELIZABETH.*

'I humbly crave but only one
worde of answer from your selfe.'

The "Letters of the Reign of Elizabeth," which are preserved in the British Museum, are so numerous, and many of them have been so frequently either printed or cited by former gleaners, that Mr. Ellis's chief difficulty in culling from such plenteous stores was, to select such as were new to the public; and those only who have experienced the labour which attends the simple inquiry whether a particular document has been printed, can properly estimate the trouble which he has undergone; few, if any, of those contained in his "Second Series" having been before published. Indeed, so important is it to historical writers to know whether what they discover in that invaluable repository has been used by their predecessors, that we think it would be exceedingly useful, if it was the duty of the Keeper of the Manuscripts to mark, not only such as he has printed, but also those which he knows have been published in other works, in the margin, with the title of the book in which they may be found. To choose a few of the most interesting letters of that period, from Mr. Ellis's selection, is a task much more easily undertaken than executed, for they are nearly all equally rich in facts that possess strong claims to attention. The first letter relates to her conduct respecting religion, immediately after her accession; and as it shows the natural anxiety of the nation on the subject, we shall give Mr. William Fitzwilliam's account of her behaviour in her "great closet" on Christmas day:—

'This nyght I came home late ffrom Londyn: and ffor newes you shall ondyrstande that yestyrdaye, beyng Crystemas day the Quene's Majestie repayryd to hyr great Closet with hyr nobles and ladyes as hath ben accustomyd in shuche hyghe ffeasts: and she parsewyng a Bysshope preparyng hym selfe to masse, all in the olde ffowrme, she tarryyd there on tyll the Gospelle was done: and when all the people lokyd for hyr to have offryde accordyng [to] the olde ffacyon, She with hyr nobles, reaturnyd agayn ffrom the Closet and the Masse onto hyr Priveye Chamber, which was strange on to dyvers, &c. Blessyd be God in all his gyfts, &c. You shall knowe more of thys mattyr by Mr. Teylle, &c.'—Vol. ii. p. 262.

* Vol. ii. pp. 255—257.

The character of queen Elizabeth is a subject upon which we are almost afraid to trust ourselves to speak. Her virtues have been so favourite a part of the national belief, if the expression may be allowed, that to many persons it is absolute heresy to allude to her faults, or rather, her crimes. As a sovereign, there is confessedly much to admire. Her decision, boldness, and masculine talents are unquestionable; but it is impossible to forget how little such merits palliate those acts of atrocious cruelty which have stamped her name with everlasting infamy. We speak not of the murder of the queen of Scots, because the guilt of that transaction is lessened by the fact, that some of the best men of the realm were fully persuaded of the necessity of her execution; that her parliament formally urged the horrible measure; and, as appears from a letter in the volume before us, Sandys, bishop of London, as early as September, 1572, in a letter to lord Burleigh on the Massacre of St. Bartholomew, betrays the most absurd fears for Elizabeth's safety, and commences the nine measures which he proposed to "ensure the Saftie of our Quene and Realme yf God will," with the truly christian-like expedient, "Forthwith *to* CUTTE OF the SCOTTISH QUENE'S HEADE."*

Our remark applies to conduct scarcely less detestable, about which some letters printed by Mr. Ellis afford many touching particulars: we allude to the manner in which she treated Katherine Grey, and her husband the earl of Hertford, for no other crime than that of marrying without her approbation. Whether Elizabeth's anger arose from a dislike to having more descendants of the blood royal, or to revenge the imaginary slight offered to her authority, the motive is equally flagitious. The moment she was aware of their union, Hertford and his wife were committed to the Tower; but during their confinement they found means to obtain interviews, the result of which was another child. The queen's vexation was in consequence heightened to fury; and Hertford was fined 15,000*l.* by the Star Chamber, namely, 5,000*l.* for "*deflowring* a virgin of the blood royal in the queen's howse;" 5,000*l.* for breaking his prison; and 5,000*l.* for repeating his intercourse with the object of his attachment. Until the plague in 1563, they were confined in the Tower, but on that occasion they were removed, he to the custody of his

* Vol. iii. p. 25. We must here refer to the account of Mary's execution, printed in a note in this volume, pp. 113—118, because it is the most circumstantial and interesting narrative of that iniquitous event ever published.

mother, and she to that of her uncle, lord John Grey: they were still, however, separated, and, in every sense of the word, still prisoners. We are presented with eight letters, either from the fair victim herself, or her immediate relatives, soliciting to be allowed to live with her husband; but their efforts were vain: her tyrannical kinswoman was callous to every human, to every womanly feeling, and was neither to be softened by submission, nor moved by entreaty; and she died in confinement in January, 1567. The correspondence on the subject is extremely affecting. In a letter to Sir William Cecill, in September, 1563, the unhappy Katherine, after thanking him for her and her husband's removal from the Tower, says,

'And as I am sure yow dout not of myne owne deare Lords good wyll for the requitall thereof to the uttermost of hys power, so I besich yow, good cosyne Cecill, make the lyke accompt of me duryng life to the uttermost of my power; besecheng your farther frendshyp for the obtayning of the Queens Majesties most graceous pardon and favor towards me, wych wyth upstretched hands and downe bente knees, from the bottom of my hart, most humbly I crave. Thus restyng in prayer for the Queen's Majesties long raigne over us, the forgevnes of myne offence, the short enjoying of my owne deare Lord and husband, wyth assured hope, throughe Gods grace, and yowr good helpe, and my lord Robert,* for the enjoying of the Queens Hyghnes favor in that behalfe, I byd yow, my owne good cosyne, most hartely farewell, from Pyrgo the thred of September.

'Your assured frend and cosyne to my small power,

'KATHERYNE HARTFORD.'†

Her grief is thus pathetically described by her uncle, lord John Grey, on the 20th of the same month:—

'I assure you cowsigne Cecill (as I have written unto my lorde Robert) the thought and care she takethe for the wante of her Highenes favour, pines her awaye: before God I speake it, if it come not the soner, she will not longe live thus, she eatethe not above six morselles in the meale. If I saie unto her, "Good madam, eate somewhat to compfort your selfe," she faules a wepinge and goethe upp to her chamber; if I aske her what the cause is she usethe her self in that sorte, she aunswers me, "alas Unckell, what a liffe is this, to me, thus to live in the Queenes displeasure; but for my lorde, and my childerne, I wolde to God I were buried." Good cowsigne Cecill, as time, places, and occasion may serve, ease her of this woofull greiffe and sorrowe, and rid me of this liffe, which I assure you grevethe me even at the hearte rootes. Thus besceachinge God in this his visitacion, to preserve us with his stretched owt arme, and sende us,

* Lord Robert Dudley.
† Vol. ii. pp. 277, 278.

merely to meete, I salute you and my ladie with my wives most hartey commendacions and mine.'—Vol. ii. pp. 279, 280.

On the 12th of December following, he says,

'The augmentinge of my Neeces greiffe in the wantte of the Quenes Magesties favour enforsethe me (besides my dewtye in nature) everyè waye to declare and recommende unto you, her miserable and wofull state; this thre or foure daies she hathe for the most parte kept her bedde, but altogether her chamber, in such wise as I thought once I shulde have ben driven to have sent for some of the Quenes Phisicions; and I never came to her, but I founde her either wepinge or else sawe by her face she had wept. Wherefore good cowsigne Cecill, for the mutuall love which ought to be betwixt christen men, and for the love wherewith God hathe loved us, beinge his, procure by some waye or meanes, the Quenes Majesties farther favour towardes her; for assuredlye, she never went to bed all this time of her sicknes, but they that watched with her much dowted howe to fynde her in the morninge, for she is so fraughted with fleame by reason of thought, wepinge, and settinge still, that many times she is like to be overcume therewith: so as if she had not painefull wemen about her, I tell you trewlye cowsigne Cecill, I coulde not slepe in quiet.'—Vol. ii. pp. 282, 283.

Her mother-in-law, the duchess of Somerset's entreaty to Cecill, is highly characteristic. After urging her request, she proceeds,

'For me to reson how moch her Hyghnes desplesure ys to long lastyng, or how unmeate yt ys thys yowng couple should thus waxe olde in pryson, or how farre beter yt were for them to be abrode and lerne to serve, I wyll not; but leave those and such lyke speches to the frendly settyng forth of my good Lord and you; only my sekyng ys, that as there ys none other cause syns her Majesties regne but hath had some favorable order or ende, so by your ernest conferryng and joynyng with my good Lord, thys yowng couple may fele some lyke of her Majesties plentyfull mercy; to the procurement wherof, the more ernest my Lord and yow shall shew your selfes, the more shall you sett forth the Queenes Majesties honor; and as a mother I must nedes say, the beter descharge your callyngs and credyte.'—Vol. ii. pp. 286, 287.

Of the death of the countess of Hertford, Mr. Ellis has annexed a description from a contemporary MS., which, when her sorrows are remembered, few can read unmoved; her last thoughts were of her husband and children.

The inflexible cruelty of the author of her misfortunes is as odious as it is surprizing, that the memory of a woman, in the catalogue of whose crimes even that before us is slight, should so long have received the respectful homage of pos-

terity. The only surviving sister of the countess also married in opposition to Elizabeth's wishes. Sir William Cecil says in August, 1565,

'Here is a unhappy chance and monstruoos. The Serjeant Porter, being the biggest gentillman in this Court, hath marryed secretly the Lady Mary Grey; the lest of all the Court.

'They are committed to severall* prisons. The offence is very great.'—Vol. ii. p. 299.

And in two letters to Cecil, she assured him that she did "as much repent her folly as ever any did," and entreated him to obtain the queen's pardon.—Vol. ii. pp. 308–10.

Our extracts from the letters of queen Elizabeth's reign, must speedily terminate; for we have yet two volumes to describe in the little remaining space which can be allowed to this article; but before taking leave of the period, we have to allude to a singular instance of that strict adherence to the laws, which the admirers of Elizabeth have so ignorantly attributed to her. When the fanatic Burchet, drew his dagger and wounded Hawkins, the naval commander, in the streets, her majesty was so incensed, that she commanded the man to be immediately executed by *martial* or *camp law,* of which intention the following letter gives an interesting account:—

'The Q. sate in the grete Closette or Parler. She gave order to Mr. Secretary to bryng to her the Commyssion for executyng by marshall lawe to be sygned at after dyner. God put it into her harte to do the best. My Lord Admyrall is gretely greved with the spech that he should advyse it, and is directly ageynst it. He told my Lord of Leicester of the execution don in London in the Rebellyon of Wyatt, but he never told it to the Quene. My Lord of Arundell is very vehement ageynst it in speche to me. The Quene asked for your Lordship, and seemed to look for you; beynge her byrthe it was hollydaye. I told her the Judges did sytt this daye in the Exchequer, and in Westmester Halle, which it semed she knew not before. What wyll become of thes actz at aftyr dyner your Lordship shall her this nyght. As I was at dyner, 28th October 1573.

'Your L. assured

'T. Sussex.'†

It is with much regret we are obliged to omit two letters, one indicative of Elizabeth's violent temper, and the second, of spirited and dignified conduct on the part of the object of her displeasure, almost miraculous in an age when both statesmen and peers propitiated her anger with oriental servility.

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* Separate.

† Vol. iii. p. 27.

The last letter of the reign of Elizabeth, from which we shall give an extract, though a mere petition to Burleigh for a situation in the College of Arms, discloses a fact, to which it is obvious, from the way in which it is printed, Mr. Ellis attributes great importance; but, though certainly deserving of notice, it does not strike us as sufficiently extraordinary to justify such an infringement on the typographical privileges of Messrs. Day and Martin.

'MAY yt please your Honnor, that where I am an humble suitor in the behalfe of my sonne Anthony Hall, in respect of dyvers services that your honnor & other my Lordes have commaunded me, as passing twise into France with the Seminarie preistes & Jesuites, being in number fast upon 60, as appeareth by certificates in the Counsell cheste of their good usages by me; as allso the conveighaunce of 4000 & 500 Irishe transported to Bristoll at two severall tymes, as appeareth by certificate delivered to your honnors under the common seal of the Towne of Bristoll; *as allso the keeping of* JAQUES DE NAA *the Scottishe Queenes Secretarie* SIX WEEKES, *I, onely, lying on a pallet in his chamber* UNTILL HE HAD DISCOVERED ALL THE TREWETH HE KNEW TOUCHING THE SCOTTISH QUEENES TREASONS, testes Mr. Phillipps her majesties decipherer, & Mr. Fra. Mills; as allso my howse was possessed at your honnors commaundment certayne dayes & nightes, whereby Ballard the preist, & Babington, with others of those trayterous crewe, were apprehended in a garden neere my house, testes Mr. Phillipps & Mr. Fra. Mills; as allso the keeping of Richard Randolphe (a professor in the lawe) in Bridewell and in the Counter as a prisoner, certayn dayes & nightes, who perswaded Bennett the preist that he should revoke those treasons whereof he had accused the Erle of Arondell, untill he had confessed all the treweth, testis Mr. Wade Clerck of the Counsel. In respect of which my loyall & dewtifull services, I humbly am a suitor,' &c.—Vol. iii. pp. 168, 169.

With scarcely an exception, the letters selected of the reign of James I. are dull and useless; and it is with great difficulty we can believe that the British Museum does not contain a variety of correspondence of the time infinitely more worthy of notice. The following letter from Bacon to the Lords of Parliament upon his impeachment is, perhaps, the only one entitled to much attention:

'My verie good Lords,

'I humblye praye your Lordships to make a favourable and true construction of my absence. It ys noe fayninge nor fayntinge, but sicknes both of my harte and of my backe; thoughe joyned with that comfort of my mynde that persuadeth me, that I am not farre from heaven, wherof I feele the first fruites. And because, whether I lyve or dye, I woulde be glad to preserve my honor and fame, as farre as I am worthye, hearinge that some complayntes of base Bryberye are

come before your Lordships, my requests to your Lordships are, First, that you will mayntayne me in your good opynion without prejudice untill my cause be hearde; Secondlye, that in regard I have sequestred my mynde at this tyme in great part from worldlye matters, thinkinge of my accompt and answere in a higher Court, your Lordships would geve me some convenient tyme accordinge to the course of other Courtes to advise with my Counsell, and to make my answere: wherin neverthelesse my Counsells part wilbe the lest, for I shall not by the grace of God trick up an innocencye with cavillacions, but playnlye and ingenuouslye (as your Lordships knowe my maner ys) declare what I knowe or remember; Thyrdlye, that accordinge to the course of Justice I may be allowed to except to the witnesses brought against me, and to move questions to your Lordships for their crosse examinacions; and likewise to produce my owne witnesses for discoverye of the truthe; and Lastlye, yf their come anye more peticions of like nature, that your Lordships would be pleased not to take anye prejudice or apprehension of anye number or muster of them against a Judge that makes two thousand Decrees and Orders in a yeare; not to speake of courses that have bene taken for huntinge out complayntes against me; but that I may answere them accordinge to the rules of Justice severallye and respectivelye.

'These requests I hope to appeare to your Lordships noe other then just. And so thinkinge my selfe happye to have soe noble Peers and reverende Prelates to discerne of my cause, and desyringe that noe priviledge of greatnes for subterfuge of guiltynes, but meane (as I sayed) to deal fayerlye and playnlye with your Lordships, and to put my selfe upon your honors and favours, I praye God to blesse your counsells and your persons; and rest

'Your Lordships humble servaunt,

'FR. ST. ALBAN, *Canc.*'*

In the introductory note to Letters of the next reign, Mr. Ellis has judiciously inserted the opinion of the judges when secretly consulted by Charles I., previous to granting the Petition of Rights on his supposed prerogative; or, as the editor, in his peculiar phraseology, expresses it, "on the claimed right of the King to commit without shewing the cause, and on the effect which the Petition might have on his prerogative in that respect." The first letter of that reign is from Dr. Williams, Bishop of London, to the Duke of Buckingham, praying to be restored to the royal favour. It proves the disgraceful influence which the notorious Buckingham possessed over the king's mind, and reflects but little honour on the prelates of that day. A more sycophantic epistle was never penned by a churchman of any age or country:—

'Most Gracious Lord, beinge com hither, accordinge unto the dutye

* Vol. iii. pp. 236, 237.

of my place, to doe my best service for the præparation to the Coronation, and to wayte upon his Majestye for his royall pleasure and direction therein, I doe most humblye beseech your Grace to crowne soe many of your Graces former favoures, and to revive a creature of your owne, strucke dead onlye with your displeasure (but noe other discontentement in the universall worlde) by bringinge of me to kisse his Majestyes hand, with whome I tooke leave in noe disfavoure at all. I was never hitherto brought into the præsence of a Kinge by any Sainct beside your selfe; turne me not over (most noble Lord) to offer my prayers at newe Aulters. If I were guiltye of any unworthye unfaithfulnes for the time past, or not guiltye of a resolution to doe your Grace all service for the time to com, all considerations under Heaven could not force me to begge it so earnestlye, or to professe my selfe as I doe before God and you. Your Grace his most humble affectionate and devoted servaunt Jo: LINCOLN.'*

Of the well-known judge, Sir Edward Coke, the following interesting anecdote is told:

'Sir Edward Coke being now very infirme in body, a friend of his sent him two or three Doctors to regulate his health; whom he told, that he had never taken phisick since he was borne, and would not now begin; and that he had now upon him a disease, which all the drugges of Asia, the gold of Africa, the silver of America, nor all the Doctors of Europe could cure, Old Age. He therefore both thankt them and his friend that sent them, and dismist them nobly with a reward of twenty pieces to each man.'—Vol. iii. p. 263.

In January, 1633, we are informed by Mr. Gresley,

'That Mr. Prinne an Utter Barrister of Lincolns Inne is brought into the High Commission Court and Star Chamber, for publishing a Booke (a little before the Queene's acting of her Play) of the Unlawfullness of Plaies, wherein in the Table of his Booke and his brief Additions thereunto he hath used these words, "Women actors notorious whores;" and that St. Paul prohibits women to speake publiquely in the Churche; "and dares then" sayth he "any Christian "woman be so more then whoreshly impudent as to act, to speake "publiquelie on a Stage (perchaunce in man's apparell and cut haire) "in the presence of sundrie men and women?" which wordes it is thought by some will cost him his eares, or heavily punnisht and deepely fined.'—Vol. iii. pp. 280—281.

Besides letters of a similar nature to those we have cited, there are some of a more important kind; though few of them are of much value to the historian, excepting as they tend to corroborate what was previously known. H. B.'s, *i. e.* Henry Bourchier, fifth and last Earl of Bath's, letter to the Speaker of the House of Lords, dated August, 1642, declining to attend

* Vol. iii. pp. 255, 256.

parliament, in consequence of the "many interruptions by scornes, menaces, and affronts, from the people inhabitinge about the citties of London and Westminster, contrary to the constitucion and priviledges of that and all other councells, where the members ought to come and sitt, and returne with honor," shows the popular fury to which Peers of the King's party were exposed.

"The total failure of the king's affairs, at the beginning of 1644," the editor remarks, "induced the Queen, then at Oxford, to entertain serious apprehensions for her safety," and, on the 17th April, she proceeded towards Exeter, where she meant to be confined. On the 3rd May she wrote to desire sir Theodore Mayerne, the great physician of the day, to come to her, and Charles enforced the request by the following affecting note:

'Mayerne,

'Pour l'amour de moy, allé trouver ma Femme. C. R.'—Vol. iii., p. 316.

A curious paper is inserted, entitled "A Narrative of the Venetian's tender of assistance to King Charles the First in his Civil Wars, and the Disappointment of it." As likewise "Of the Design of confiscating the English Merchants effects in Turkey to his Majesty's use, by Sir Gilbert Talbot," but we have no room for extracts from them.

It seems that the arrival of Charles in the Scottish army almost petrified its leaders with astonishment. The Commissioners in announcing that event to "the Commissioners of the Parliament of England," observe,

'The discharging of ourselves of the duty wee owe to the Kingdom of England, to you as Commissioners from the same, moves us to acquaint you with the kings cominge into our Army this morninge: which having overtaken us unexpectedly, hath filled us with amazement, & made us like men that dreame. We cannot thinke that he could have been soe unadvised in his resolucions, to have cast himselfe upon us without a reall intencion to give full satisfaction to both Kingdomes in all theyr just and reasonable demandes in all those thinges that concerne Religion and Righteousness. Whatsoever be his disposicion or resolucion, you may be assured that we shall never enterteyne any thought, nor correspond with any purpose, nor countenance any endeavours, that may in any circumstance encroach upon our League and Covenant, or weaken the Union or Confidence between the Nations. That Union unto our Kingdome was the matter of many prayers.'—Vol. iii., pp. 323, 324.

Even the enemies of Charles I. have admitted his strict adherence to opinions which he considered just, and that, with the exception of the sacrifice of Strafford, most of his errors were those of the head rather than the heart. It is impossible to

resist giving his letter to Juxon, bishop of London, asking for that prelate's sentiments on "a case of conscience," for, in our opinion, it fully establishes the sincerity of his scruples:—

'My Lord,

'My knowledge of your worth and learning, and particularly in resolving cases of Conscience, makes me at this time (I confess) put to you a hard and bold task, nor would I do it, but that I am confident you know not what fear is in a good cause. Yet I hope you believe that I shall be loath to expose you to a needless danger, assuring you that I will yield to none of your friends in my care of your preservation. I need not tell You the many persuasions and threatnings that hath been used to me for making me change Episcopal into Presbiterial Government, which absolutely to do, is so directly against my conscience, that, by the Grace of God, no misery shall ever make me: but I hold myself obliged by all honest means to eschew the mischief of this too visible storm, and I think some kind of compliance with the iniquity of the times may be fit, as my Case is, which at another time were unlawful. These are the grounds that have made me think of this inclosed Proposition, the which as one way it looks handsome to us, so in another I am fearful least I cannot make it with a safe conscience; of which I command you to give me your opinion upon your Allegiance. Conjuring you, that you will deal plainly and freely with me, as you will answer it at the dreadful day of Judgement.

'I conceive the Question to be, whether I may with a safe Conscience give way to this proposed temporary compliance, with a resolution to recover and maintain that doctrine and discipline wherein I have been bred. The duty of my Oath is herein chiefly to be considered; I flattering myself that this way I better comply with it, than being constant to a flat denial, considering how unable I am by force to obtain that which this way there wants not probability to recover, if accepted (otherwise there is no harm done), for my Regal authority once settled, I make no question of recovering Episcopal government, and God is my witness my chiefest end in regaining my power, is, to do the Church service. So expecting your reasons to strengthen your opinion, whatsoever it be, I rest

'Your most asseured, reall, faithfull,
constant frend
'Charles R.'

'I desire your opinion in the particulars, as well as in the general scope of it; and yet mend much in the penning of it. I give you leave to take the assistance of the Bishop of Salisbury and Dr. Sheldon, and either of them. But let me have your answer with all convenient speed. None knows of this but Will Murray, who promises exact secrecy. If your opinions and reasons shall confirm me in making of this Proposition, then you may some way be seen in it, otherwise I promise you, that your opinion shall be concealed.'—Vol. iii. pp. 325, 326, 327.

We have already had occasion to speak of the readiness with

which Mr. Ellis adopts what may be justly called the prejudices of history. If the letters or actions of royalty are in question, his language would do credit to the rankest tory; but if a roundhead falls under his notice, he is proportionally lavish in his sneers or censure. In the ardour of his political rancour, he forgets the proper meaning of even the simplest words; and the usual rules of composition are abandoned without remorse, lest they might affect the warmth of his expressions. His introductory note to "Letters written during the Commonwealth," fully justifies the latter part of this observation:—

'Few Letters of the Fanatical Period have occurred to the Editor of these Volumes, and those few (with the exception of the Letters which Cromwell wrote to the Grand Signior and his Vizier) will perhaps excite no extraordinary or deep Interest. They are full of cant and grimace, and, for the most part, affect extreme Piety. It is amusing to see how the Oliverians canted to each other even in moments of confidence.'—Vol. iii. p. 350.

Almost the first letter which occurs, he designates, with offensive familiarity, "A Letter of Cant;" but we are not informed how a letter can be full of "grimace." Like Mr. Ellis, we despise hypocrisy, though we hope we do not resemble him in believing that all who distinguished themselves during the Commonwealth were void of religious sincerity. However deceived themselves, there is every cause to consider that many of them were actuated by the purest motives, and though their correspondence and conversation were a mixture of temporal and spiritual concerns; though they pretended to trace the hand of Providence in the most trifling events, and prophaned the holy writings, by using them in justification of unchristianlike deeds, it would be equally ignorant and presumptuous to brand them as wild fanatics or flagitious hypocrites. Religious prejudices claim a liberal allowance from historians. They should be alluded to as delicately as possible, and never be made the criterion to judge of men's professions or conduct, when surer evidence is to be found; but still less, ought an attempt to be made to bias the reader's mind, by applying degrading epithets to documents like those which Mr. Ellis has brought to light. It is an editor's province to supply such notes as will illustrate the subject of his labours; but he sadly wanders from his duty, when he allows his prejudices so far to usurp the place of his better judgment, as to talk of a "*Fanatical period*," because it was the period of transactions inimical to his political faith.

We agree with Mr. Ellis, that the letters he has given during the Interregnum possess no extraordinary interest. Of the

dissolution, or, as the writer terms it, "resolving" of Barebone's Parliament, we have a description almost as laconic, as the measure was resolute. Some letters occur in the commencement of the fourth volume, on the plague in London in 1665, which render us more perfectly acquainted with the sufferings of the inhabitants, and of the measures which they adopted for their safety; but, with the following exceptions, they are almost the only ones of much value. Charles II., in a letter to the duke of Ormond, 15th of September, 1667, gives the following reasons for dismissing lord Clarendon from his office of chancellor.

'My purpose was also to say something to you concerning my taking the Seals from the Chancellor; of which you must needs have heard all the passages, since he would not suffer it to be done so privately as I intended it: the truth is, his behaviour and humour was grown so unsupportable to myself, and to all the world else, that I could not longer endure it, and it was impossible for me to live with it and do those things with the Parliament that must be done, or the Government will be lost. When I have a better opportunity for it, you shall know many particulars that have inclined me to this resolution, which already seems to be well liked in the world, and to have given a real and visible amendment to my affairs. This is an Argument too big for a Letter; so I will add but this word to it, to assure you that your former friendship to the Chancellor shall not do you any prejudice with me, and that I have not in the least degree diminished that value and kindness I ever had for you, which I thought fit to say to you upon this occasion, because it is very possible malicious people may suggest the contrary to you.'—Vol. iv., pp. 39, 40.

A letter from Mr. Henry Savill to Secretary Coventry affords us some information on the use of Tea in 1678, to which we refer the numerous votaries of that beverage; whilst those who wish for recondite information on the subject, may consult the learned secretary's note. It is well known that James duke of York was shipwrecked on the Lemon and Ore in May, 1682, when his royal highness narrowly escaped being drowned: a letter which Mr. Ellis has inserted, describing that event, proves Hume and other historians to have blundered with great intrepidity in their accounts.

The note with which the series of letters in the reign of Charles II. closes, contains many interesting particulars relative to the religious sentiments of that monarch on his death-bed. The Revolution of 1688 is an epoch of such deep interest to Englishmen, that every document connected with it possesses very strong claims upon their attention: hence, perhaps, the letters which occur from the accession of James II. to that of Anne will be the most eagerly read. The editor has justly remarked that "they tell the daily story of their time," and

what period was so fruitful in important events? The greater part are from an individual whose name does not occur, but which might very easily have been ascertained from the contents of some of his letters, to Mr. Ellis, secretary of the revenue in Ireland; they were generally written within a few days of each other, and acquaint him with every movement which took place on the political chess-board. The first is dated London, 5th Jan. 1686; but we have so little space, that our extracts from the remaining part of this volume must be extremely few and brief. The author of this valuable correspondence was clearly a man of rank, and filled a high situation in the ministry or in the household; and his statements are manifestly impartial. His account of James's religious zeal is amusing: "London, April 6th, 1686: the busy time of devotion is now over here. His Majesty, God bless him, one of the zealousest. Ten hours in a day sometimes" [vol. iv. p. 91]. In the tumult which succeeded the acquittal of the Bishops, the attorney and solicitor generals appear to have performed the office of constables by *personally* seizing those who expressed joy at the defeat of James's efforts against those prelates: in more modern times, the exuberance of a similar zeal in such personages is displayed in another but scarcely less disagreeable manner.

London, July the 3rd, 1688.

SIR;—'The jury having brought in their verdict of not guilty upon the bishops on Saturday morning, the unruly Mobile broke out into wild huzzas and acclamations. Some of the gown were also observed to be as loud as any; for which the Attorney General caused one of Gray's Inn to be seized, and bound him to answer to an information; the Solicitor General was like to catch another, but that he narrowly escaped in the crowd.'—Vol. iv. p. 109.

So late as the end of September, 1688, the citizens of London were, we are told, hearty and unanimous in James's cause; but the most striking fact connected with the Revolution is, the little fear which appears to have been felt in consequence of the Prince of Orange's invasion. The same letter which informs Ellis that the king had issued a proclamation on the subject, animating them to behave like true Englishmen, states, that on the day before, there had been an investiture of the Garter. Ten of the bishops waited on the king about the same time, "and having been a long time in his closet, were dismissed, very well satisfied, and one of the chief of them telling his friends that *omnia benè*" [vol. iv. p. 128]. On the 2nd of October, James, "as a mark of his confidence in the loyalty and affection of the city" of London, restored its charter, "to the inexpressible surprise, as well as joy of them all. His majesty

told them likewise that he thought the Dutch fleet was by this time under sail" [*ib.* p. 129]. And, on the 9th, "all Coffee-houses and other public houses that deal in news-letters, or expose to the public any foreign or domestic newspapers besides the printed Gazette," were ordered to be suppressed [p. 130]. From that day to the 23rd of November the letters are filled with an account of the various proceedings both of James and the Invaders, from which it seems that the archbishops and several peers were urgent in their entreaties to the king that he would call a free parliament, and prevent the effusion of blood; but the writer says he knows not what reply they received. The state of London at that critical moment is thus described in a letter dated Nov. 22, 1688 :—

'Though there never was more occasion of inquiry for busy impertinent people that gad about all day long for coffee and news, yet never was less certainty of what passes in the world; most people affecting to disguise the truth, and there being at present about the City many engines that are made use of to spread what most suits the humour of some party; yet the City of London was never more quiet, every man minding his business and securing their debts, and the generality of the soberer and the richer sort have expressed their dislike of these proceedings, which are like to perpetuate and entail war upon the nation, by the removal of the Prince of Wales, who is now at Portsmouth, and as some will have it will pass into France.' —Vol. iv. p. 155.

James returned to Whitehall from Salisbury on the 26th,* pursuant to the advice of a council of war.† On the same morning the Princess Anne secretly left London; and, on the following day, James summoned all the peers in London to attend him.‡ The next letter is from Anne to the Queen, apologizing for her absence, which arose from her wish "to avoid the king's displeasure, which I am not able to bear, either against the Prince or myself." Her feelings are eloquently pourtrayed :—

'Never was any one in such an unhappy condition, so divided between Duty and Affection to a Father and an Husband; and therefore I know not what I must do, but to follow one to preserve the other.'—*ibid.* p. 166.

In a letter dated on the 18th of December, we are informed of the King's return from Feversham on the 16th, and of the Princess Anne's "splendid entry into Oxford," preceded by the bishop of London, on the 15th.§ On the 18th of that month, James finally quitted Whitehall; and as

* Vol. iv. p. 164. † *Ibid.* p. 160. ‡ *Ibid.* p. 165. § *Ibid.* p. 175.

'The Prince did not think it safe for him to come to London so long as his Majesty had such a confluence of Papists still about him, and that the Prince's Guards should go along with him to preserve him from the insults of the mobile; the King went accordingly at one o'clock, and lay that night at one Mr. Eckinse's house an Attorney in Gravesend, and about ten next morning set forwards for Rochester. His Majesty's barge was followed by ten or twelve boats of the Prince's soldiers. The Prince of Orange remains at St. James's, where no great business were done yesterday, by reason of paying and receiving Visits; only a Regiment was sent to possess themselves of the Tower; most of the Bishops about the town were with his Highness; the Duke of Norfolk came and paid his devoirs. The Prince in the afternoon went to Whitehall, and from thence, in the Queen's barge, to Somerset House to compliment the Queen Dowager. In his return hearing that the Prince and Princess of Denmark were come to town, he called to see them at the Cock-pit.'—Vol. iv. p. 179—80.

But we must not close our notice of this intelligent writer's correspondence, without quoting what he says of his own prospects in the general commotion:—

'The King landed on Tuesday morning near Marquès, and went post to Paris on Wednesday. I cannot see who your Government will fall to; I think neither our friend nor the pert pretender. The Prince is very unwilling to break any one Regiment, so that he must have further work ere long for them: I know not what will be my lot, but I am vain enough to think in a general bustle I shall shift for one. You will pardon me that I say no more.'—Vol. iv. p. 185.

Several letters from Lord Melfort, two or three of which Mr. Ellis says are "impassioned," then occur. They are well deserving perusal, not only from their historical interest, but from the advice which they contain to James, at a moment when Melfort fancied he had gained the battle of the Boyne, and consequently, that he would speedily be restored to his throne. A single specimen will show the feelings of the writer towards those who effected the Revolution:—

'If the King be forced to pardon, let it be as few of the Rogues as he can, and with a watchful eye over them, remembering that King David pardoned Chimei at his return to Jerusalem, but took care that he should sooner or later feel the smart of his wickedness the first failing he made. Such as are excepted, no pardon should ever be allowed; and amongst these should be as many of those families where father and son both are engaged, or such as have been hereditarily disloyal; for from such there is no more loyalty to be expected than religion from the Devils. It is not in their nature, and Rebellion is like the sin of Witchcraft, neither can repent.'—Vol. iv. p. 194—5.

Nor are the arguments used by him to the Pope, to induce

his Holiness to aid James in the recovery of his kingdom, less important in illustration of the views of the Catholic party:—

'That there never was a time in which the Holy See had so much honour to gain or lose, and that the Eyes of all Europe was upon his Holiness to see if he would tamely suffer a Catholic Kingdom to fall into the hands of Heretics, unconcerned to see so many hundreds of thousands of Catholics under the grievousest persecution, and greatest temptation to lose their Religion. That by a timely and suitable assistance his Holiness might have had the glory in his Pontificate to have advanced the Catholic Religion in England and Scotland, where it was not; and as that would have been much to his honour, I was assured he would never give occasion to the contrary by suffering a Catholic Kingdom to be dismembered from the Church in his time, without giving all the assistance he could to such as were endeavouring its defence.'—Vol. iv. p. 202.

His Holiness's horror that *Te Deum* should have been sung in any cathedral for the Prince of Orange's success is related in strong terms by his lordship, who says, they sung "Te Deum for the Church's having lost a Kingdom, and a Heretick's victory."—*ibid.* p. 205.

The editor has found evidence that king William seriously intended to abandon the kingdom, in consequence of his indignation at the Commons having interfered about the number of troops he kept in pay in December, 1698. Mr. Ellis says,

'The SPEECH *which he penned* and intended to have delivered upon that occasion, *is still remaining in the* KING'S OWN HAND *among the Manuscripts in the* BRITISH MUSEUM. We are not told by whom he was influenced to withhold it.'—p. 216.

A copy of the Speech forms part of the note.

The "Letters of the Reign of Anne," excepting those from the duke of Queensberry to the queen, relative to the affairs of Scotland, in one of which, dated 11th August, 1703, he acquaints her with the plot which lord Lovat had discovered to him to overthrow the government, are not deserving of much attention, though a few of them may be useful to the historian of the period. The resolution of the dukes of Devonshire and Bolton, lords Dorchester, Orford, Wharton, Townshend, Somers, and Halifax, to remove the Prince from the office of lord high admiral, is thus stated in a letter from lord Sunderland to the duke of Newcastle in 1708:—

'They considered that the management of the fleet, as it is of the greatest consequence, so it is under the most scandalous management of all, and that this is never to be cured but by the Prince's quitting; for that whatever Council he has, George Churchill will in effect be always Lord High Admiral; so that they have in a body declared to

Lord Treasurer, that if this is not immediately done, they must let the world and their friends see they have nothing more to do with the Court. The man they propose to be Lord High Admiral is Lord Pembroke (which would open a redress for Ireland, and, what is so much desired by all honest people, the President's place for Lord Sommers). My Lord Treasurer seemed to agree with them in opinion (as his way always is in words), but at the same time pretends great difficulties, and that when Lord Marlborough comes, all will be set right, which by the way cannot be much before Christmas.' —Vol. iv. pp. 252, 253.

The whole letter, and one or two which precede and follow it, are, however, well worth perusal, as they explain the secret cabals of the time. Towards the latter part of Anne's reign, the letters to her from the elector, as well as those from the earl of Oxford to his highness, are indicative of jealousy between the former, and of over-abundant zeal on the part of the latter, towards the rising sun. Anne created the son of her successor duke of Cambridge in 1706, and in 1714, upon his father's minister at her court applying for his writ of summons to parliament, he acquainted the queen with the request, to whom it was evidently offensive. The chancellor replied, that her majesty had been pleased to say,

'That not having received the least intimation of this demand from you, or in any other manner whatsoever from the Court of Hanover, she could hardly persuade herself that you acted by direction from thence; that she therefore did not think fit to give any other answer than this, that I should do what the law required. The Writ for the Duke of Cambridge was sealed, of course, when the Writs of Summons to all the other Peers were sealed, and lies ready to be delivered to you whenever you call for it.'—Vol. iv. p. 273.

The affair, however trifling, caused Oxford immediately to write to the elector on this accident "which hath happened about the writ," on which occasion he repeated his expressions of devotion to his Serene house. From his earnest assurances that the queen "is most hearty for your succession; and if there be any thing which may render it more secure which is consistent with her majesty's safety, it will be accomplished," it seems the elector entertained some doubts of Anne's sincerity on the point. In April in that year he entreats his highness not to attempt to bring any of his family into this country without the queen's consent; but in June following, the elector wrote to Oxford, urging the necessity of some member of his house residing in England, for the security of the Protestant Succession, and against the attempts of the Pretender. The death of Anne a few weeks afterwards, placed his

highness on the throne of these realms, upon which event Mr. Ellis's loyalty breaks out in the following overwhelming effusion: "With the reign of GEORGE *the* FIRST a milder sway began than was known under the Plantagenets, the Tudors, or the Stuarts: the king was wise, benevolent, and merciful."

George the First, like his illustrious descendant, appears to have experienced an attempt against his prerogative, by statesmen refusing to take office; and his majesty adopted a very similar remedy. Dr. Kennett says to Dr. Blackwell, in February, 1717,

'If my Lord Oxford persist in declining the sea-service, the Prince himself will be Lord High Admiral: and if Mr. Wall be uneasy, King George has heard that King William once undertook to sit himself at the head of the Treasury board.'—Vol. iv. p. 305.

On the 17th of June, 1717, Kennett became "fixed in this opinion, that king George is one of the honestest men, and one of the wisest princes in the world" [p. 307]:—he was appointed bishop of Peterborough in 1718.

Our wish to give extracts from some very curious letters of a later period obliges us to pass over all which remain of the reign of George the First; nor can we do much more than call our readers' attention to a romantic but extremely interesting letter from the eccentric duke of Wharton to his sister, in defence of his conduct: though we cannot resist the pleasure of extracting his eloquent remarks on his attainder:—

'The word *late* is now become the most honourable epithet of the Peerage, it is a higher title than that of *Grace*, and whenever you hear me spoke of in that manner, I beg you to think as I do, that I have received *a new mark of honour*, a mark dignified by the Duke of Ormond, Earl Marischal, and others. You that have often read Clarendon's History must know that during the reign of Cromwell and the Rump Parliament, the whole Peerage of England was styled THE LATE HOUSE OF LORDS; there was then no want of *late Dukes, late Earls*, and *late Bishops*, and why should that be reckoned a reproach to a single Peer, which was then the distinguishing title to the whole body? Was that usurper Cromwell the fountain of honour? Had he who murdered one King any more power to taint the blood of his fellow subjects, than his illustrious successor, who has fixed a price on the Head of another? For as Lord Harcourt finely observes in his Speech on Dr. Sacheverel, there is little or no difference between a wet Martyrdom or a dry one. Can a High Commission Court at present, or a Secret Committee, tarnish the honour of a family? Is it a real disgrace to be condemned by Macclesfield, Harcourt, Townshend, or Trevor? Is it a dishonour to be robbed of a private fortune by those who have stript the widow and the fatherless? who have sold their Country? who have plundered

the public? No, my dear Sister, assure yourself that this unjust Prosecution is a lasting monument erected to the honour of our family; it will serve to render it illustrious to after ages, to atone for the unhappy mistakes of any of our misguided ancestors. If it should end with me, it will, however, have outlived the Liberties of England. Those honours which we received at first from the Crown, can never be more gloriously interred than in the defence of the injured rights of the Crown; than in the cause of the rightful Monarch of Britain, the greatest of Princes and the best of Masters.'—Vol. iv. pp. 341, 342.

The only remarkable "Letters of George the Second's Reign," are a few connected with the rebellion of 1745; the conduct and execution of admiral Byng; and Mr. Pitt's professions of veneration for the king of Prussia. One letter of the period is too curious to be only alluded to. The opinion which Frederick expresses of Voltaire to the writer, Mr. Mitchell, the English minister to Prussia, and the fact that the French court availed itself of Voltaire's correspondence with that monarch to obtain political secrets, are curious:—

'Two days ago happening to dine with his Prussian Majesty alone, I threw out by way of conversation some reflections on the indignity with which Monsieur de Choiseul had treated Baron Edelsheim, charged with a Letter of Credence. The King of Prussia, after mentioning, with some warmth, the weakness and absurdity of the French Ministers, replied, that Baron Edelsheim had, properly speaking, no Letter of Credence, but only a Letter from Minister to Minister in which even a blank was left for the inserting of his name in case there should be occasion, and he added that as to the seizure of the Baron's papers, which was the only reasonable motive for arresting of him, the French would be disappointed if they expected to make discoveries by them, for he had given the Baron no written Instructions, and they would only find a particular cypher, which was of no consequence.

'I then took the liberty to observe that some late Letter his Prussian Majesty had written which had fallen into the French Minister's hands, seemed to have given great offence. His Prussian Majesty replied, "I have wrote no letter, but one to Voltaire." I ventured to say, "Perhaps your Majesty may have in that Letter made use of some strong expressions with regard to the Duke de Choiseul." He answered, "No. I think I made use of this proverbial phrase, that the Duke de Choiseul was possessed by ten millions of Austrian devils;" that, as to the rest, he had told Voltaire, he would keep to his alliance with England, and that if the French had a mind for Peace they must speak out plainly; and he said that this Letter to Voltaire was an Answer to one he had received from him, in which Voltaire had assured him that the French Ministers were perfectly well disposed towards a Peace. I think proper to acquaint your Lordship minutely with every circumstance concern-

ing this affair, which I wish may agree with the accounts received from other parts; but I cannot help adding that the King of Prussia's Correspondence with Voltaire has, on this, and former occasions, given me some uneasiness and suspicions; for I believe the Court of France make use of the artful pen of Voltaire to draw secrets from the King of Prussia, and when that Prince writes as a wit and to a wit, he is capable of great indiscretions. But what surprises me still more is, that whenever Voltaire's name is mentioned, his Prussian Majesty never fails to give him the epithets he may deserve, which are, the worst heart and greatest rascal now living; yet with all this he continues to correspond with him. Such, in this Prince, is the lust of praise from a great and elegant Writer, in which, however, he will at last be the dupe, for by what I hear from good authority of Voltaire's character, he may dissemble, but never can nor never will forgive the King of Prussia for what has passed between them.'—Vol. iv. pp. 418–420.

In a glowing eulogium upon the character and reign of George the Third, Mr. Ellis has fallen into the common error of considering that his majesty "released the judges of the land from dependance upon himself." George the Third did no such thing. The independence of the judges was secured by stat. 13, Will. III. c. 2, which enacted, "That their commissions shall be made, not as before, *durante bene placito,* but *quamdiu bene se gesserint,* and their salaries ascertained and established, though it is lawful to remove them on the address of both houses of Parliament." The boon granted by his late majesty is, that the judges are continued in their offices, *notwithstanding* any demise of the crown, which was formerly held immediately to vacate their seats, though by the 1st Anne, stat. 1, c. 8, they were continued for six months afterwards. Thus, notwithstanding all the fulsome praise bestowed on the statute of the 1 George III. on the subject, his majesty did not sacrifice one iota of the regal prerogative so far as he himself was concerned, but merely retrenched part of what would have belonged to his successors. We are sure Mr. Ellis will thank us for this friendly correction of the error into which his admirable loyalty has seduced him.

Lord Barrington's notice of the new administration in March 1761, and more especially of his own fitness for the situation to which he was appointed, would excite a smile, if we could forget the disgraceful conduct of those who nominated a man to an office of high public trust, who acknowledges himself "as fit to be the pope." The justice of his opinion of the little difference between a sinecure and a pension is not likely to be disputed:

'Our Administration is at last settled; I think well settled in the

main, and my opinion is, that it will last. Our friend Holdernesse is finely in harbour: he has 4,000*l.* a year for life, with the reversion of the Wardenship of the Cinque Ports after the Duke of Dorset, which he likes better than having the name of Pensioner. I never could myself understand the difference between a Pension and a Sinecure Place. The same strange fortune which made me Secretary at War five years and a half ago, has made me Chancellor of the Exchequer. It may, perhaps, at last make me Pope. I think I am equally fit to be at the head of the Church, as of the Exchequer. My reason tells me it would have been more proper to have given me an employment of less consequence, when I was removed from the War Office; but no man knows what is good for him. My invariable rule, therefore, is, to ask nothing, to refuse nothing, to let others place me, and to do my best wherever I am placed. I have the satisfaction to be perfectly well with my Royal Master, who really deserves all love and admiration, and with the three persons whose union can alone keep this country great and happy. Perhaps I may contribute to the continuance of it, and it shall be my utmost endeavour to do so.'—Vol. iv. pp. 432, 433.

Lord Harcourt must surely have seen her late majesty with the eyes of a courtier rather than of a critic, when he describes her as "no regular beauty, but of a pretty size; has a charming complexion, very pretty eyes, and finely made. In short, she is a very fine girl."—Vol. iv. p. 439.

In October 1761, we find lord Barrington again expressing his unfitness for the situations imposed upon him, with a candour truly edifying:—

'I continue, my dear Mitchell, advancing without application to advance, or indeed desire; being convinced that I have long been placed too high. When the time comes for my retiring to the situation best adapted to my nature, I hope to fall easily: I promise you that your old friend will not fall in the dirt.'—Vol. iv. p. 443.

Our extracts will end with one from a letter from Mr. Erskine to Mr. Mitchell, dated 27th September, 1763, describing the negotiation with Mr. Pitt for his return to office, and which perhaps details one of the most extraordinary discussions between a subject and his sovereign that ever took place in this or any other country.* As Mr. Ellis has not filled up the blanks, we have endeavoured to do so, though we cannot explain the cause of his omission of so essential a part of an editor's duty.

'The Convention between Lord Bute and Mr. Pitt was long carrying on with the utmost secrecy under the mediation of Lord

* In Thackeray's History of lord Chatham, however, there is a much better and more credible account of the same transaction, in a letter from lord Hardwick to his son. *See* Vol. ii. p. 35.

S[helburn]e, a young nobleman who is said to be possessed of great abilities, to have studied the system of ministerial craft with great assiduity under that able master, Mr. Fox, and to unite to no small share of presumption the most unbounded ambition. The ministry, suspicious of some such Transaction, jealous of the influence Lord Bute still retained over the King, and alarmed at the spirit of discontent which the Opposition had so artfully and assiduously spread through the whole Nation, were in the mean time busily employed in forming a private plan for their own support, by which they hoped to regain the confidence of the People, and give weight and consistency to their Administration. Threats of a general Resignation were the arms to be employed for carrying their plan into execution. Lord Egremont's death disconcerted all their measures, and hastened the conclusion of the treaty between Lord Bute and Mr. Pitt. At Mr. Pitt's first interview with the King, he behaved with great modesty and decorum; but when he insinuated that his Majesty would doubtless be pleased that Lord Bute and he should unite their Councils for his service, the King stopped him short. "How! Mr Pitt, do you mean to laugh at me? You must know, as well as me, that that nobleman is determined never more to take any share in the Administration." Mr. Pitt was, however, on the whole, so moderate in his demands, and the King so condescending that there seemed little reason to doubt of an happy issue to the Conference. Towards the close of it, the King said "that as a Coalition was now happily to take place, he hoped it would be general and diffusive, that all past rancour, malice, and ill-will, would be buried in oblivion, as nothing could give him such real pleasure as to see his People united and happy; that he especially wished to see Lord Temple reconciled to his brother, whose good heart he was thoroughly convinced of, and whose affection for his Lordship all their differences had not been able to stagger." To this Mr. Pitt made no reply. The next day Lord Temple and Mr. Pitt were at Court; they bowed very low; the King spoke to them without constraint; but, as I thought, with apparent coolness. They, however, thought themselves so sure of success, that they summoned their friends to Town. But, at the next Conference (from what motive I have not been able to learn) the scene was entirely changed, the style of a Dictator was assumed; terms were no longer proposed, but prescribed; and conditions exacted, that nothing but the most abject meanness or most absolute despondency could assent to; a total bouleversement of the Government was demanded; an universal proscription of all who had served it boldly threatened, with some few invidious exceptions; and *sic volo, sic jubeo,* denounced a total annihilation of Regal Authority. "The whole frame of your Government is disorder'd, and will require seven Years at least to restore it to the state it was in eighteen months ago; your army is in the utmost confusion, and must no longer be governed by a Secretary at War totally ignorant of all military affairs; there must be a man of experience put at the head of it, a man of character, rank, and dignity, to give weight to

his command." The King: "I agree with you, Mr. Pitt, and by the picture you have drawn you doubtless mean Lord Granby" (this disconcerted him a little, and he replied) "Or—or—or Lord Albemarle." "All those who voted for the Peace must be turned out, and all the Tories to a man: the Duke of Manchester indeed is young and has not yet been tainted, and Lord Halifax may be trusted; but the Duke of Bedford must have no share in Administration, I will have nothing to do with him or with any Tory whatever." The King: "Tories, Mr. Pitt? I protest I do not understand you; if you mean by Tories such, and such, and such, you will please to recollect you brought every one of them in yourself." Thus, unassisted, did the King debate the important point of his own Sovereignty with that able and (unfortunately) violent Negotiator; and having, during the whole Conference, preserved the utmost command of his temper, concluded it with those remarkable words: "Should I consent to these demands of yours, Mr. Pitt, there would be nothing more left for me to do, but to take the Crown from my own Head, and place it upon yours; and then patiently submit my Neck to the Block." The Ministers were not a little alarmed at Mr. Pitt's admission into the Cabinet without their concurrence, and it was whispered that they intended to avoid the disgrace of being turned out by an immediate Resignation. Lord Sandwich did resign, but assigned a plausible reason for it, and declared his adherence to the Ministry. The King called the Ministers together, acquainted them with what had passed between him and Mr. Pitt, and, in a spirited Speech, let them know that he expected they would labour assiduously in discharge of the duties of their respective Departments, so that no blame might be thrown upon his Government; that he should always be willing to take their advice in Council, and hoped, with their assistance, he should be able to govern in a manner wholly unexceptionable and for the good of his People; but that he was determined, for the future, never to be guided by the councils of any Individual; and that he would suffer any extremities, and even retire to Hanover, rather than suffer himself to be enslaved by the ambition of any of his Subjects. In consequence of all this the Ministers gave out that they would apply diligently to their respective business, and give themselves no concern about the future efforts of the Opposition. The exorbitant demands of the Great Man were generally condemned, the spirit of the king universally applauded; even the City begins to change their style, and the three Lords taken in have the approbation of the Public.'—Vol. iv. pp. 468—472.

In estimating the merits of such a work, as a collection of "Original Letters, illustrative of English History," the chief subjects for consideration are, to what extent they attain that object; secondly, whether they are the most important which could have been selected from the archives to which the editor had access; and, lastly, the manner in which he has illustrated the text. Upon the first point, we need say but little; for it is

obvious, from our extracts, that, though numerous letters occur which, comparatively speaking, are but of little historical, or indeed of any other value, many will be found of equal interest and importance; whilst even the least useful letters tend, in a greater or less degree, to add to our information on the manners and customs of the respective periods to which they refer. Hence we receive the selection with gratitude; and sincerely trust Mr. Ellis may collect a third series as soon as his many official avocations will allow him to devote the necessary labour. Whether the letters before us are the most valuable which are in MS. in the British Museum, is a question of considerable doubt. We might be accused of presumption if we assumed to ourselves a knowledge of the library there which could be put into competition with that of the Keeper of its manuscripts; but we certainly are impressed with the belief that Mr. Ellis has omitted some of superior, and many of, at least, equal merit to those with which he has favoured the world. Upon the last point for consideration, the character of the editor's notes, we shall say as little as possible, because we are most unwilling to check the feeling, be it what it might, to which we are indebted for these volumes; and because we should be extremely sorry to give Mr. Ellis pain.

It will be seen, from many of our remarks, that we have often been obliged to disagree with his statements; to differ wholly from his conclusions; to animadvert upon his bad taste and style; and to ridicule the empirical manner in which he has caused many of his observations to be printed. But though we cannot admire his manner of expressing himself, or always coincide with his assertions, we most willingly applaud the research and information which he has occasionally displayed. His notes are, however, very unequal; and, though amply abundant in the first and second, there is a lamentable deficiency in the third, and more particularly in the fourth, volume In forming them, Mr. Ellis has, with extraordinary care, avoided mentioning the works of existing writers; and we believe we may say that there is not a single instance in which he has done so unless to remark that one of them had published the letter which he introduces, excepting with respect to some of his colleagues in the British Museum. To what circumstance this fact is to be attributed, we are ignorant. It might have arisen from his placing a far greater reliance on departed, than on living, talents; but it exposes him to the suspicion of being actuated by a littleness of feeling not very creditable to his personal, and certainly derogatory to his literary, character. Mr. Ellis's besetting sin is an effort to be witty; to amuse his

readers with a jest, when mirth is wholly out of place: thus he finds jokes where we confess we can see none, and considers that "ludicrous" which we should deem almost affecting. These, however, are trivial faults, and for the sake of the information which his work contains, we can not only easily pardon them, but include in the amnesty his numerous errors, and the many trespasses he has committed against good taste and the English language. We must also add, that both series of "Original Letters" are deficient in what quintuples the utility of works of that nature—an Index.

ART. VI.—*An Introductory Lecture on Political Economy, delivered before the University of Oxford, December 6,* 1826. By N. W. Senior, of Magdalen College, A.M. Professor of Political Economy. London. Mawman. 1827.

IN 1816 a course of Lectures on Political Economy was commenced in the University of Cambridge by Mr. Pryme, a gentleman whose name is distinguished in the list of University honours, and an ex-fellow of Trinity College. The institution of these lectures reflects the greater credit upon Mr. Pryme, inasmuch as they were set on foot entirely at his own suggestion; "with the concurrence," it is true, "of the vice-chancellor," but without any special sanction or encouragement from the heads of the University. The official promoters of learning at Cambridge rest satisfied with the vice-chancellor's *concurrence* in the establishment of these lectures: it has not yet occurred to them that a professorship of Political Economy would contribute both to the fame of their University and to the improvement of those whom they have in charge; they are still ignorant or careless of the growing avidity with which studies of this nature are pursued by many of the most promising amongst the academic youth, and of the necessity, on their parts, of ministering to the intellectual wants of those whose education it is their exalted duty to direct.* Oxford, with no greater obligation to those who regulate the studies of the place, has been more fortunate in this particular.

In the year 1825 (says the Oxford Calendar), Henry Drummond, esq. of Albury Park, in the county of Surrey, and formerly of Christ Church, subjected his estate in the county of

* Perhaps we do wrong in singling out Political Economy as an instance of the many useful sciences untaught in this famous University. It will scarcely be believed that Cambridge is still without a chair of Moral Philosophy; nay, even without a chair of Logic.

Surrey with a yearly rent-charge of £.100 for the endowment of a professorship in Political Economy, under the following (amongst other) conditions :—

"The Professor (a Master of Arts, or Bachelor in Civil Law, of Oxford, at least), from time to time, to be elected by the Chancellor, Masters, and Scholars of the University in convocation assembled.

"No person to hold the office for more than *five* successive years, or be re-elected until after the expiration of *two* years.

"Every Professor to read in *full* term, during any one or more of the four academical terms, in every year, a course of Lectures on Political Economy, consisting of *nine* Lectures at the least; *and also, during every year, to print and publish one of such Lectures at least.*

"Every Professor neglecting to give public notice of the time proposed for the commencement of every course of Lectures; or, on the attendance of a class, to read a course of Lectures in the manner described, or to print and publish one Lecture at the least, *forfeits the whole of his stipend, or salary,* for the year or years in which such neglect takes place; the amount of the forfeiture to be applied to the augmentation of the funds of the Professorship."

The pages before us are the first fruits of this liberal endowment; and, judging from this specimen, we have little doubt that the munificent intentions of the Founder have been amply fulfilled in the appointment of the first professor. Mr. Senior's name is not unknown to students of political economy, and cannot but rise in their esteem from the publication of this Lecture.

Of the importance of this science to the welfare of human society we have spoken so much at large in a former Number,* that we shall scarcely be called upon for reasons, when we repeat our full concurrence in Mr. Senior's observation, that Political Economy takes its rank "among the first of moral sciences in interest and in utility: that the human faculties cannot be engaged in a pursuit more useful in its result, or more interesting in its progress." These may seem, at first sight, to be mere expressions of that partial fondness with which the students of every science are too apt to exaggerate the importance of their respective pursuits. It may soon, however, be made to appear that, so far from over-stating the claims of political economy to the attention of *all*, they fail in conveying an adequate idea of its utility. The mathematicians

* Number IV.

of Cambridge have long maintained (at least in *practice*), that the best employment of the precious years between seventeen and twenty-two is an exclusive devotion to the science of quantity and figure. If any single human pursuit could be entitled to so great a draft upon the best years of education, we should have little hesitation in assigning the claim to that science which most nearly concerns the acquirement of the means of *living well*, and regulates their distribution.

The objects of knowledge consist in procuring happiness and avoiding pain; in increasing the amount of pleasure, and diminishing that of evil: but the chief object is the diminution of evil. If we turn our eyes to the condition of the vast majority of human kind, to those who earn their miserable subsistence by the labour of the body and the sweat of the brow, we are impressed with a melancholy conviction of how little has yet been done to improve the lot of the great mass of the human race—in how small a degree this chief end of knowledge has been accomplished. Modern ages have witnessed the growth of many sciences to maturity, of some to perfection: mathematics and chemistry, the most complete and extensive, as well as the most valuable instruments by which the dominion of man has been extended over the powers of nature, have long attained a degree of certainty, beyond which their advancement may seem rather an object of curiosity than of use. Every branch of physical knowledge has been explored with a success that has seldom failed to reward the toil of the inquirer: the art and science of logic, and the philosophy of mind have long assumed their places in the rank of the exact sciences: the effect of this advancement of knowledge, has been for ages apparent, and is daily more obvious in the increase of wealth, the multiplication of securities against evil, and the production of fresh means of enjoyment; but in the distribution of these good things, a very small—in comparison with the whole, an insignificant—class of the community lays claim to a lion's share, and the poor "are sent empty away." It is plain, therefore, that none of these are the sciences by which the misery which has always marked the lot of the lower classes—of the ninety-nine of every hundred—can be removed. It is equally plain, that to the discovery of the means of removing it "the resources of the human mind should be intensely applied." To such discoveries, or rather to their propagation, we look forward with confident hope; "but our hope," to use Mr. Senior's language, "is founded solely on the expectation of the diffusion of sound principles of Political Economy."

To form an estimate of the interest which this study is

calculated to excite, and of the deep importance of those conclusions to which it leads, it is merely necessary to run over the heads of those topics about which it is conversant.

The object of labour—of all exertion beyond that which is requisite for the preservation of health, and amounts to agreeable exercise—the object of *painful* labour is the production of all those things which tend to the convenience and embellishment of life. If the study of government and legislation be important for the purpose of securing to him who shall have acquired, by dint of his own or his predecessor's labour, whatever quantity of those commodities he may have been willing and able to acquire—if the study of morals be important for the same purpose, in those cases which the arm of law is not long enough to reach—it is difficult to imagine that the study of that science which treats of the production of those commodities, and which therefore precedes the others in point of *time*, and is analogous with them in respect to the subject matter to which they all relate, should be either of less importance, or excite a feebler interest. We have lately read, that the King, Lords, and Commons, the whole fabric of the British constitution, supported, as it is, at the expense of sixty millions a year, exists merely for the purpose of maintaining the twelve judges in their seats in Westminster Hall. And for what purpose do the judges sit there? To regulate the distribution of property between individual and individual; to prevent the violation of the right which every man has to his own, by the fraud or force of those who would enjoy without labour. But Political Economy explains a law of the same kind, and one neither less interesting nor less important—the law by which property is distributed between the great classes of society. In proportion as this distribution is unequal, is one class rich, powerful, and despotic; another poor, defenceless, and oppressed; in proportion to its equality is the well-being and good government of both.

Such being the objects of its inquiries, the production and distribution of wealth, it is easy to point out the importance of this science to every class of mankind.

On the production of wealth, a few words will be sufficient: it is enough to observe, that the problem which it is the business of the Political Economist to solve is, how to produce most of it with least labour. This all will admit to be the principal object of legislation in respect to the production of commodities; but how lamentable is the difference which prevails as to the means of accomplishing it; and how necessary it is that accurate ideas should be diffused, we may have from every day's experience.

What are the clear deductions of Political Economy on this point?

That men should be left free by the laws to produce whatever commodities they find it their interest to produce; that they should not be prevented from producing some, and bribed to produce others.

That when produced, they should be left to exchange them where and for what others they find it convenient; and not be forced to buy dear and sell cheap, to give more and get less, than they might do if left to themselves.

Those are the great principles by which Political Economy teaches us, that the greatest sum of commodities can be obtained at the least expense of labour.

But what *are* the current opinions, and what *have they been* on this very subject?

That there are certain commodities to which a country should chiefly direct its productive faculties; that these should be produced by the terror of prohibiting laws, or the inducement of bounties.

Without entering into the evidence by which these propositions are respectively maintained, it is manifest that if one set of them be true, the other is false: if the latter be false (as no man, we will venture to say, who is unprejudiced by private leanings, will for a moment doubt, after a due examination of the subject), then, from an ignorance of this science have we, has all the world, been for ages contriving impediments by which to check the productiveness of industry, and the growth of riches: thus, instead of adding to our store, according to the fond imaginations of our legislators, our whole endeavours have been bent to unnerve the arm of labour, and to inflict an artificial barrenness on the soil.

But the errors relating to the laws by which wealth is parcelled out amongst the different *classes* of society, so far exceed in importance every other misconception relating to the mere temporal interests of the human race, that nothing else can seem (in comparison) to deserve any mention here. The condition of the labouring classes, that is of the vast majority of human beings, has been in most ages and countries so destitute of all the comforts, and conveniences of life, that their lot has been commonly regarded as one of hopeless misery, to which most were by habit indifferent, and which even the most benevolent endeavoured (for their own sakes) to forget. To the state of the people, and the feelings with which they were regarded in ancient times, it is not necessary here to allude.*

* For some striking observations on the condition of the people of Rome and in the republics, or, rather, the aristocracies of Greece,

The increase of wealth, and therewith of the leisure for philosophy, in modern Europe, or rather in modern France and England, has at length given sufficient expansion to the sympathies of human nature in the better portions of society, to induce some men to have their eyes upon the condition of the people with another view than that of contriving more effectual means of turning them to their own account. Hitherto, in so far as practical good is regarded, the results of this kind intention and diligence have been abortive; and it is owing to no excellence in the plans of these philanthropists themselves, that they have not added to the mischief they were meant to remove. Where the means of doing good were small, and the numbers of those who were desirous of doing it were few, the endeavours of the philanthropists ended in an alms-house or an hospital for a dozen old women in a parish of 5,000 inhabitants, or a trust of fifty pounds a year for portioning young women in marriage. In the metropolis these things have been carried on on a wide scale. Our extensive asylum for Foundlings leaves as many beggars and vagabonds of tender years loose on the world as before; and the generous patrons of the Lying-in Hospital are astonished that, in spite of the increase in the numbers of those whom they relieve, the numbers of those whom no such institution *can* relieve is as great or greater than ever. What they have adverted to in their inquiries into the sufferings of the poor, is the extent and nature of those sufferings: in their contrivances for removing them, they have applied no other means than would suffice for a partial and temporary alleviation. In both respects, therefore, it was to be expected that their plans would terminate in failure. To ensure a chance of success, they should have begun by ascertaining, not the extent and nature, so much as the cause, of the poverty, by which the lower orders are bent to the earth; and having ascertained the cause, they should have set about to devise a permanent and universal remedy. They have seen that wherever food was wanted, it was to be had by any body who possessed the means of purchasing it: but why it was that the means of purchasing were never sufficiently within the reach of the poor, has never been the subject of effective inquiry amongst any but the Political Economists.

By the Political Economists it has been shown that the cause of poverty is the inequality between the quantity of food to be eaten, and the number of mouths to be fed: that food can only be produced in a perpetually decreasing quantity at the expense

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admirable Essay on Colonies, in the *Supplement to the Encyclopædia Britanica.*

of perpetually increasing it, whilst the mouths to be fed are produced in perpetually increasing numbers; and hence, that an equality between food and population (that equality which shall secure a sufficient quantity of food for every human being born into the world at all times and seasons) can only be maintained by limiting the numbers of the people. Here is a conclusion which every one acquainted with the evidence will admit to be indisputable, and which all who understand the terms, must admit (if established by reasoning) to be pregnant with results of the last importance to society.

But, to bring about these useful results, it is necessary that the study of Political Economy should not be confined to individuals or schools, to the closet of the man of letters or the class of the professional teacher: it must be diffused throughout the community; it must attract the notice of the mechanic and the artisan, and penetrate into the cottage of the labourer. To hope that this should be effected in any short period of time would only show that the writer's judgment was overmatched by his impatience. Considering the indifference of the multitude (and we speak of the multitude of every class) to serious pursuits, we are aware that the progress of a science like this to general favour, must be slow and tedious. But turning, on the other hand, to the vast importance of its objects; considering the great ends which it professes to accomplish, and the interest which every man has in their speedy accomplishment, it would argue a very poor opinion of the human intellect to doubt of its ultimate popularity. Not only in the metropolis, the focus of light and learning, but in every provincial town, there are many who amuse their leisure hours with the various subjects of interest which the press has placed within the reach of all whose intellectual acquirements extend to the art of reading. Many is the merchant's clerk and shop-keeper's apprentice who devotes the few leisure hours which are spared from his useful drudgery to some humble excursion into the wide domain of science; who flies from the desk or the counter to hunt after beetles and butterflies, to burn his fingers with sulphuric acid, or blow himself up by a clumsy manipulation of the retort. To students of this stamp, and indeed to amateurs of whatever class or description, these pursuits are merely objects of harmless amusement, expedients borrowed from the arsenal of the great conspiracy against the common enemy, *time*: the use they are of is confined to the pleasure of the moment; or if we look to any ulterior benefit, it is that they supply the place (and great, indeed, is *that* benefit) of less innocent occupations. Far be it from us to undervalue these

pursuits—to sneer at any means by which the course of life can be enlivened without incurrring the guilt or remorse by which pleasure is too often purchased. It would certainly have been better for the French duchess (we forget her name) to have drawn on the redoubtable blue-stocking, and dabbled in gas and geology, than to have been driven, by ignorance and indolence, to confess her distaste for *innocent pleasures.* But a good thing is not to be praised to the detriment of a better; and however pleasing it may be to contemplate the diffusion of a taste for scientific amusements, we should be better pleased to see this taste supplanted by the desire for *useful* knowledge. If the deductions of the Political Economist are less imposing than chemical experiments, it is only that the latter are presented to the *eye,* whilst the former are addressed to the reason. In this respect, there is much the same difference between the brilliant exhibitions of the chemist, and the simple doctrines of the politician, as that which has been remarked between the Romish and the Reformed religions: the one is all glare and glitter, whose ceremonies delight the eye and captivate the imagination, and then lose their influence; whilst the other, with its austere and simple ritual, is solely bent on reaching the heart: the one looks chiefly to present, the other to permanent, effect: the aim of the one is rather the amusement, of the other the improvement, of life. And yet the study of Political Economy, important as we have shown it to be to the well-being of mankind, is

> "Not harsh and crabbed as dull fools suppose,
> But musical as is Apollo's lute."

As an instance of the interest which may be communicated to topics of this kind, by a dexterous method of exposition, we cannot do better than quote the following passage:—

'If we compare the present situation of the people of England with that of their predecessors at the time of Cæsar's Invasion; if we contrast the warm and dry cottage of the present labourer, its chimney and glass windows (luxuries not enjoyed by Cæsar himself), the linen and woollen clothing of himself and his family, the steel, and glass, and earthenware with which his table is furnished, the Asiatic and American ingredients of his food, and above all, his safety from personal injury, and his calm security that to-morrow will bring with it the comforts that have been enjoyed to-day; if, I repeat, we contrast all these sources of enjoyment with the dark and smoky burrows of the Brigantes or the Cantii, their clothing of skins, their food confined to milk and flesh, and their constant exposure to famine and to violence, we shall be inclined to think those who are lowest in modern society richer than the chiefs of their rude predecessors. And if we consider that the same

space of ground which afforded an uncertain subsistence to a hundred, or probably fewer, savages, now supports with ease more than a thousand labourers, and, perhaps, a hundred individuals beside, each consuming more commodities than the labour of a whole tribe of Ancient Britons could have produced or purchased, we may at first be led to doubt whether our ancestors enjoyed the same natural advantages as ourselves; whether their sun was as warm, their soil as fertile, or their bodies as strong, as our own.

'But let us substitute distance of space for distance of time; and, instead of comparing situations of the same country at different periods, compare different countries at the same period, and we shall find a still more striking discrepancy. The inhabitant of South America enjoys a soil and a climate, not superior merely to our own, but combining all the advantages of every climate and soil possessed by the remainder of the world. His vallies have all the exuberance of the tropics, and his mountain-plains unite the temperature of Europe to a fertility of which Europe offers no example. Nature collects for him, within the space of a morning's walk, the fruits and vegetables which she has elsewhere separated by thousands of miles. She has given him inexhaustible forests, has covered his plains with wild cattle and horses, filled his mountains with mineral treasures, and intersected all the eastern face of his country with rivers, to which our Rhine and Danube are merely brooks. But the possessor of these riches is poor and miserable. With all the materials of clothing offered to him almost spontaneously, he is ill-clad; with the most productive of soils, he is ill-fed: though we are told that the labour of a week will there procure subsistence for a year, famines are of frequent occurrence; the hut of the Indian, and the residence of the landed proprietor, are alike destitute of furniture and convenience; and South America, helpless and indigent with all her natural advantages, seems to rely for support and improvement on a very small portion of the surplus wealth of England.

'It is impossible to consider these phenomena without feeling anxious to account for them; to discover whether they are occasioned by circumstances unsusceptible of investigation, or regulation, or by causes which can be ascertained, and may be within human control. To us, as Englishmen, it is of still deeper interest to inquire whether the causes of our superiority are still in operation, and whether their force is capable of being increased or diminished; whether England has run her full career of wealth and improvement, but stands safe where she is; or, whether to remain stationary is impossible, and it depends on her institutions and her habits, on her government, and on her people, whether she shall recede or continue to advance.

'The answer to all these questions must be sought in the science which teaches in what wealth consists, by what agents it is produced, and according to what laws it is distributed, and what are the institutions and customs by which production may be facilitated, and distribution regulated, so as to give the largest possible amount of wealth to each individual. And this science is Political Economy.'—pp. 3–7.

This kind of exposition is undoubtedly well adapted to ren-

der the science popular, and is at once a proof of the utility of the new professorship, and the abilities of the professor. The following is a passage of equal merit.

In considering some of the objections that have been made to the study of Political Economy, it is observed, that,

'The first is, that as the pursuit of wealth is one of the humblest of human occupations, far inferior to the pursuit of virtue, or of knowledge, or even of reputation; and as the possession of wealth is not necessarily joined, perhaps it will be said, is not conducive, to happiness, a science of which the only subject is wealth, cannot claim to rank as the first, or nearly the first, of the moral sciences.

'My answer is, first, that the pursuit of wealth, that is, the endeavour to accumulate the means of future subsistence and enjoyment, is, to the mass of mankind, the great source of moral improvement. When does a labourer become sober and industrious, attentive to his health and to his character? As soon as he begins to save. No institution could be more beneficial to the morals of the lower orders, that is, to at least nine-tenths of the whole body of any people, than one which should increase their power and their wish to accumulate: none more mischievous than one which should diminish the motives and the means to save. If we have institutions eminently calculated to produce both the benefit and the mischief, how valuable must the science be, that teaches us to discriminate between them, to extend the one, and to remove, or diminish, or, at least, not to extend, the other!

'I answer, in the second place, that it is, perhaps, true, that the wealth which enables one man to command the labour of hundreds or of thousands, such wealth as raised Chatsworth, or Fonthill, may not be favourable to the happiness of its possessor; and, if this be so, Political Economy will best teach us to avoid creating or perpetuating institutions which promote such inconvenient agglomerations. But that diffusion of wealth which alone entitles *a people* to be called rich; that state of society in which the productiveness of labour, and the mode in which it is applied, secure to the neighbouring classes all the necessaries, and some of the conveniences, of life, seems to be, not merely conducive, but essential, both to their morals and their happiness. This appears to me so self-evident, that I am almost ashamed of taking up your time by proving it. But, if proof be wanted, we have only to consider what are the effects on the human character of the opposite state of society; a state in which the mass of the people is habitually confined to a bare subsistence, and, consequently, exposed from time to time, from the accidents of trade, or of the seasons, to absolute want. I will not dwell on the misery of those on whom actual want does fall: it is too painful to be stedfastly contemplated, and forms only a small part of the evil. The great evil is the general feeling of insecurity: the fear which must beset almost every man, whose labour produces him only a subsistence, and who has no resource against contingencies, that at some period, how near he cannot tell, the want under which he has seen others sink may reach himself. The principal sources of happiness are the social affections; but (to use the words of a powerful

writer, and a very accurate observer of human nature) "the man whose thoughts are perpetually harassed by the torment of immediate, or the dread of future want, loses the power of benevolent sympathy with his fellow-creatures; loses the virtuous feeling of a desire for their pleasures, and an aversion to their pains; rather, perhaps, hates their pleasures, as rendering the sense of his own misery more pungent; desires their pains, as rendering the sense of that misery the less. This is the explanation of the cruel and ferocious character which uniformly accompanies the hardships of savage life. Another result of suffering is, that it produces an extraordinary greediness for immediate gratification; a violent propensity to seek compensation from any sensual indulgence which is within the reach. It is a consequence that the poorest individuals in civilized society are the most intemperate; the least capable of denying themselves any pleasure, however hurtful, which they can command. Hence their passion for intoxicating liquors; and hence, because he is still more wretched, the still more furious passion for them in the savage."*

'It is scarcely necessary to add, that such a population must be grossly ignorant. The desire for knowledge is one of the last results of refinement; it requires, in general, to have been implanted in the mind during childhood; and it is absurd to suppose that persons thus situated would have the power or the will to devote much to the education of their children. A further consequence is the absence of all real religion: for the religion of the grossly ignorant, if they have any, scarcely ever amounts to more than a debasing superstition.

'It is impossible that, under such circumstances, there should be an effectual administration of justice. The law has few terrors for a man who has nothing to lose. Its efficiency, too, is almost altogether dependent on the support it receives from the general body of the people. Among a very poor, and consequently, a very ignorant people, sympathy is almost always in favour of the offender: his flight is favoured, his lurking-places are concealed, the witnesses against him are intimidated, and he escapes even after he has become the subject of prosecution: but more frequently he escapes even prosecution. Outrages are committed in the presence of hundreds, and we are told that not one of the perpetrators can be identified; that is, though they are well known, the witnesses conceal their knowledge.

'When such is the character of the bulk of the community, there can be no security for the persons or property of any of its members. The three great restraints from crime, religion, good feeling, and law, have, as we have seen, little force; while the great source of crime, the passion for immediate enjoyment, acquires additional strength.

'I do not expect to be accused of having exaggerated the wretchedness of a country, in which the bulk of the people are subject to the pressure, or the apprehension, of want. But I may be told, perhaps, that I have supposed an extreme case, a danger to which no civilized society is exposed, to provide against which is a waste of labour.

'My answer is, first, that the miserable situation which I have described has, up to the present time, been that of many of the inhabitants of every densely-peopled country.'—pp. 11–17.

* History of British India, b. 6, c. 6.

We have seen how Mr. Senior has dealt with one objection to the study of this science: he has been equally successful in attacking the grand argument of the *practical* politicians, the Lethbridges, the Gooches, the William Peels, and so many other sagacious individuals, whose sphere of vision extending no further than their own nose, declare war against all mankind who see beyond theirs. If we gave credit to these philosophers, it would be wonderful that any man endued with the proper, agricultural portion of common sense, and who has read "the book of experience," should so far forswear the use of his eyes, as to believe the visionary doctrine of the earth's revolution about the sun. If one thing be plainer and more practical than another, it is, that the sun revolves round the earth; this is visible day by day, and all day long: there it rises, early in the morning, behind Clerkenwell Green, spins over the river, and sets at Hyde Park Corner; that, we say, is *a fact:* our ancestors all saw it; we see it; so will our children, and our children's children. For the sake of common sense, and common honesty, let us hear no more of the theoretical philosopher, Newton, and his crazy disciples.

But, alas! this new-fangled professor retorts upon these ingenious reasoners the words of their own mouths, and smites them with the weapons of their own invention:—

'Political Economy,' he says, 'was an art long before it was a science; and neither those who first practised it, nor their advisers, were filled by knowledge, honesty, or singleness of purpose to desire right ends, or to employ proper means.

'Those who first practised it in modern Europe (and our maxims of Political Economy have no earlier origin), those who first endeavoured to employ the powers of government in influencing the production, distribution, and consumption, of wealth, were semi-barbarous sovereigns, considering their subjects not as a trust, but a property, and desirous only to turn that property to the best and readiest account.

'Their advisers were landholders, merchants, and manufacturers, each anxious only for his own immediate gain, and caring little how the rest of the society might be affected by the monopoly he extorted. From the mode in which these persons pursued what they thought their individual interests, aided by national jealousy, and by the ambiguities of language, and unchecked by any sound principles, arose that unhappy compound of theoretic and practical error, the "Mercantile System." I think I may take it for granted, that all those whom I am addressing are acquainted with the outlines of that system: and I must necessarily consider it somewhat at large in my next lectures. I will say no more of it, therefore, in this place, than that it was founded in a belief, that the wealth of a country consists solely of gold and silver, and is to be retained and increased by prohibiting the exportation of money, and by giving bounties on the exportation, and imposing restrictions on the importation of other commodities, in the hope of producing a trade, in

which the imports being always of less value than the exports, the balance may be paid in money: a conduct, as wise as that of a tradesman who should part with his goods only for money; and instead of employing their price in paying his workmen's wages, or replacing his stock, should keep it for ever in his till.

'As is the case, however, with every long-standing abuse, so many persons are immediately interested in supporting particular parts of the system, and the theory on which it is founded so long commanded universal assent, that ninety-nine men out of a hundred imbibe it with their earliest education. Terms which imply the truth of the theory, and, consequently, the propriety of the practice, have even become a part of our language. A trade in which money is supposed to be received in exchange for goods, is called a trade with a *favourable* balance; duties imposed to give monopolies to particular classes of producers, are called *protecting* duties; applications of the public revenue, to divert capital and labour from their natural employment, are called *bounties*. The consequence of all this is, that men who fancy they are applying common-sense to questions of Political Economy, are often applying to them only common prejudice. Instead of opposing, as they fancy, experience to theory, they are opposing the theory of a barbarous age to the theory and experience of an enlightened one.' —p. 28–20.

It will be observed, that in quoting the two former of these passages, we have had an eye to their bearing on the remarks at the commencement of this article, as well as to the merit of the writer's style and manner. We cannot doubt that the diffusion of economical principles, which was the sole object of the foundation, will be greatly advanced by these lectures. They will afford an excellent opportunity of simplifying this abstruse study, and presenting it in an attractive shape to a large number of intelligent young men; and thus of inoculating the minds of a class, whence, in after-life, a great portion of the governing body in this country is drawn, with the principles of so beneficent a science; they will hold up the Founder's name to merited applause, and stimulate the exertions of the professor in his useful employment.

ART. VII.—1. *Le Gilblas de la Révolution; ou les Confessions de Laurent Giffard.* Par L. B. Picard, de l'Académie Française. 5 tom. Paris. 1824.

2. *The Gil Blas of the Revolution.* By L. B. Picard. 3 vols. 12mo. 1825.

THE excellence of this work, and its comparatively small popularity in this country, have induced us to attempt making its merits more widely known, and more duly appreciated. We carry on at home the manufacture of historical

novels to a very great extent; and the introduction of foreign wares may seem to be needlessly glutting the market. But it is a fixed opinion here, that our own works of this class are pre-eminently good; and it is therefore desirable that we should be made aware that our pre-eminently good falls short of the degree of perfection to which our neighbours have arrived. We are very far from saying, that this fact will be apparent on the face of the following pages. The admirable Picard is so very a Frenchman, that he does not look like himself in an English dress. His smiles disappear; his gaiety is restricted; his deportment grows formal; the edge of his wit is taken off; his piquancy ceases to be piquant; and his numberless naïve and happy turns lose their point, and appear insipid. Those who would enjoy his unrivalled felicity of thought and expression must cultivate his own acquaintance, unimpaired by translation or abridgment. In the present instance, we are useful but as huissiers du cabinet, and shall have amply done our part, if the reader finds any thing in our pages to induce him to search the cabinet itself. Without more preface, we shall proceed to discharge our duty to M. Picard, and endeavour to turn over the pages of his hero's life, with a hand like that hero's when he trimmed the chins of his pratiques: "Comme j'avais la main leste et légère, j'en expédiai beaucoup en peu de temps."

On the morning of the 24th June, 1789, the man of razors sets out early on his usual round. It was the day after the royal sitting at Versailles, in which Louis had tried on the National Assembly the effect of an imposing pageant and an authoritative tone. All Paris was open-mouthed on the subject, and the genial presence of the perruquier naturally elicited the sentiments of his pratiques.

"Voilà donc le gouvernement qui reprend tout-à-fait son autorité!" cries monsieur Moreau Déristel, agent and man of business to several noble families, as well as religious communities.

'"I should be glad to know what your Tennis-Court gentry say *now*, Giffard!—Morbleu! had I been minister, I would have called out the troops, and have marched at their head; yes, I——" Monsieur Moreau Déristel brandished, as he spoke, his little couteau-de-toilette with an air of most determined resolution. "Oui, en avant!" shouted I, fired by his ardour; and making an unlucky flourish with my puff, I covered monsieur Moreau Déristel's face with powder. "Gently, gently, Giffard," said he, wiping his eyes with the sleeve of his gown. I hastily apologized, and he resumed: "Yes; I would have surrounded them in their Tennis-Court—I would have arrested the traitors—I would have hanged . . ."—"Hanged! oh! c'est un peu fort: moi, je

me serais contenté de les faire mettre à la Bastille."—" Ou à Bicêtre." —" Oui, à Bicêtre, comme de la canaille." '

The chin that next passes under Giffard's hands belongs to M. de Volnis, philosopher-abbé, writer in the Mercure, expectant academician, " qui avait un bon petit bénéfice," and who, ever since the first mention of the States-general, had been incessantly in motion, presenting plans to ministers, writing pamphlets, intriguing to get himself named deputy by the clergy, deputy by the " Third," and breathing out indignation against all men and all parties, because the minister took no notice of his plans, nobody read his pamphlets, and neither clergy nor people chose him deputy.

' Whilst I officiated, he read the transactions of the day before, in one of the journals of the period. At every sentence he shrugged his shoulders with a vehemence that repeatedly displaced my comb. At last, throwing the paper angrily on the table, " I never wished to be deputy; if I had, they know well enough that .... but *now* I do congratulate myself that I am not. There they are—let them make the best of it—I wash my hands of them."—" And I too," said I .... '

Durosay, the comedian, a kind of Democritus, cannot see what in the world it is people are disputing about; only their disputes are infinitely diverting. " I am sure we say nothing half so droll on the stage. However, Giffard, it will all end well; they will shout and dispute, and—they will agree; prejudices will sink, and the profession of an actor be no longer despised."—" And we, gentlemen perruquiers, we shall no longer be confounded with the canaille."

The young abbé Derigny, fresh from college, and inflamed by the stories of Greek and Roman patriotism, had embraced with transport the side of liberty, independence, and equality; glowing with the purest devotion for the cause of the people, and the most irreconcileable hostility to the privileged orders, and to arbitrary power.

' " Heaven be my witness, it is not myself that I consider, c'est ma patrie: I live, I breathe but for ma patrie: I desire nothing but to see its rights secured, and abuses redressed .... Let the powers of Europe attack us if they dare. J'irai combattre, combattre et vaincre pour ma patrie."—" Et moi aussi," m' écriai-je, " je suis prêt à combattre pour ma patrie et pour la liberté." '

Giffard's morning round ended with M. le Marquis de Rinville, a young nobleman under age, and captain of cavalry, already looking forward to a colonelcy :—

' Il n'était pas chez lui quand j'arrivai; il ne tarda pas à rentrer. " Que le diable les emporte tous !" s'écria-t-il."—" Qui donc?"—" Tous les politiques. Oui! de tous les partis, même du nôtre. Il semble

qu'on ne puisse plus causer d'autre chose en France. Jusqu'à la petite Rosalie qui se permet de lancer des épigrammes contre la noblesse .... Eh! mais, petite sotte, lui ai-je répondu, qui te donnerait des diamans et un équipage, s'il n'y avait plus ni grands seigneurs, ni prelats? Jusqu'à ma vieille tante la douairière, qui s'effraie et qui s'imagine que le peuple va nous dévorer .... My dear aunt, I say to her, don't be alarmed; they will make a great noise, but two companies of light cavalry, and a few shots in the air, will disperse them, and the affair will have no worse issue than the bread riots you talk about, which ended in hanging a barber."—" Diable! mauvaise fin!"

On reflection, Giffard was somewhat amazed at the variety of opinions he had heard, as well as at perceiving how he himself had, one after another, echoed them all. But then he was "léger" by age and character, and supple by profession; like the rest of the fraternity of the strap, a devoted admirer of persons of quality; and though grievously chagrined at having to play about them a part "subalterne et très-subalterne," yet deeming himself thereby entitled to look down with contempt upon all other operatives. At the same time, the sight of the luxuries with which they surrounded themselves, more especially of the handsome hôtel and fine gardens opening upon the Champs Elysées, whither he was in the habit of repairing to "coiffer" M. le Marquis de Rinville, threw him into an "accès d'envie—" "Pourquoi sont-ils à ces gens-là? pourquoi pas à moi?" Then there was their dress, "fort recherché," which he vainly strove to imitate, and their "airs d'homme de qualité," which he essayed to play off in the cafés, and at the Comédie Italienne, in vain. "Comment cela se faisait-il? malgré toutes mes precautions, et j'ose le dire, le bon goût de ma parure, deux ou trois fois, dans les disputes de parterre, je fus apostrophé du nom de garçon perruquier! Quelle humiliation!" Thus disposed at the present epoch, he was an aristocrat by contempt for his equals, and a democrat through envy of his superiors; but the cause of the revolution naturally triumphed at last; for our perruquier was nobody, and he ardently desired to be somebody.

It first gratified his ambition by evoking the national guard, and enrolling him in its ranks. Then, as he enjoyed the somewhat rare talent of spelling "assez passablement," it employed him in copying out the addresses, &c. of his district—"Secretaire d'un district! appelé à des fonctions publiques par les suffrages de mes concitoyens!" "Quelle gloire! je me croyais un personnage!" To the functions of district secretary, the perruquier "de la Revolution" soon added those of "orateur dans les groupes," in which capacity he flattered himself that he enjoyed "quelques beaux mouvemens d'éloquence."

'One day, as I was holding forth on the Quai de l'Ecole, at the end of the Pont-Neuf, and had nearly finished my harangue, I observed among my audience, M. Moreau Déristel, who appeared to be listening very attentively to the discourse. I was somewhat confused at being thus caught en flagrant délit de patriotisme by one of my aristocratical pratiques; but I was more surprised at hearing him join loudly, and with an air of enthusiasm, in the cry "Vive la nation!" with which the crowd greeted the close of my oration. Next morning, when I waited on him as usual, we were both at a loss what face to put upon our proceedings: I was thinking of my harangue, and he of his "Vive la nation!" He was the first to open his mouth, and he opened it only to make a profession of faith tout-à-fait patriotique. "Oh! oh!" said I, "monsieur est bien changé."—"Oui, j'ai reconnu mes erreurs. Je suis devenu patriote.... très patriote."—"Et moi aussi," I replied. From that moment M. Déristel was continually vaunting his civism before me, and declaiming against the blind obstinacy of the aristocrats. I have always thought he was afraid of me ever after he had heard me harangue the crowd.'

At length arrived the memorable anniversary of the 14th July, or the fête de la Fédération, as it was called, a great day of triumph for the Revolution. The whole month was a succession of fêtes and entertainments. "Que de repas! que de revues! que de cérémonies!" People from all parts of France flocked to the capital: political animosities seemed to be suspended, and Giffard was tempted to believe "tout le monde patriote." Every body presaged peace, liberty, and harmony; but every body was mistaken.

Our perruquier, who boasts that at this time he was enabled to practise his original calling more *en amateur*, out of choice, to keep his hand in; and who "faisait fort joliment ses affaires," grew indifferent or, rather, averse to politics. "Je commençais à m'ennuyer de la continuité de notre effervescence: je trouvais que nos députés n'en finissaient pas."

And possibly he might have remained unknown to fame, had he not fallen in love with a certain "orgueilleuse grisette," a very aristocratical "fille de boutique," whose affections he found were no otherwise to be won than by assuring her, under promise of the strictest secresy, that he was "le jeune marquis de Quissac," who had been reduced to hide his nobility under the vulgar name of Giffard. In the prosecution of this amour, M. le Marquis meets with an adventure, in which he very narrowly escapes being tossed in a blanket by a party of republicans. The story takes wind, and next day the poor perruquier is saluted by some of his camarades as "M. le Marquis Giffard;" by others, as "M. le Perruquier de Quissac." One even affirmed, that he had seen somebody "cabrioler en l'air" above a garden-wall, on the pre-

ceding evening. "J'étais d'une colère .... Je ne conçois pas encore comment je ne demandai pas raison à cet impertinent railleur .... Oh! pour cette fois mon chagrin fut profond!"

'"Morbleu!" said I to myself, "why not be a marquis in reality? why not be a prince? Yes, I will emigrate; I will go to Coblentz; I will return at the head of one hundred thousand men, and take vengeance on these insolent democrats. Besides, what is there to induce a person of taste or information to remain in France now? Plus de goût, plus de lumières! They are relapsing fast into barbarism. The big-wigs of the parliament have already disappeared; there hardly remains so much as a brigadier. .... I foresaw, too, nothing but evil; for I had even then conceived a sad presentiment of the unpowdered Tituses and coiffures à la Caracalla, which appeared a few years after, to the total annihilation of my art."'

In these resolutions he was at first laughed at, and afterwards encouraged, by his noble pratique, M. de Rinville, whom love of pleasure had hitherto detained in Paris; though the revolutionary symptoms had latterly become such as frequently to make him wind up his aristocratical tirades with something not unlike a sigh. "Patience, patience, messieurs," would he say, apostrophizing the democrats, en soupirant, et mêlant à son soupir un petit ton de menace." His departure was at last precipitated by some trick, "je ne sais quelle mystification," played upon him by a party of patriots. Giffard knew not the precise nature of it; but in return for the many biting jests which his own misadventure had drawn from his noble patron, he was tempted to inquire, if the marquis also had not been threatened with the blanket.

'Il se promenait fort irrité dans sa chambre. "Un homme comme moi!" disait-il, "humilié! molesté! .... moi, le marquis de Rinville!" Come, come, gentlemen, it is time to put an end to all this; it is time to take a decided part. .... Within eight days I start for Coblentz."—"Vous partez!" said I, in consternation. "Ne te désole pas," replied he, "c'est une petite promenade que je vais faire sur les bords du Rhin, et nous viendrons ensuite faire une autre promenade sur les bords de la Seine pour châtier messieurs les Parisiens."

When Giffard subsequently announced his own magnificent resolution to emigrate likewise, '"Toi? Giffard," me dit-il. "Eh bien, oui. Je te sais gré de ton zèle chevaleresque; je t'emmène comme valet de chambre."' This last word somewhat damped our hero's "zèle chevaleresque." It was the hope of being able to play M. le Chevalier de Quissac at Coblentz (for the adventure above alluded to had given him a distaste for the title of M. le Marquis) that had induced the perruquier to think of emigrating. The marquis humoured his fancy, and proved

mathematically, that all the bourgeois who repaired to Coblentz, Spires, or elsewhere, could not fail of returning "peut-être même avec des lettres de noblesse! ...."

'War had not yet been declared, but it was impending. The two parties seemed to measure each other with impatient eyes. The gentry left the capital without affecting secresy; and the émigrés assembled on the right bank of the Rhine complimented those of their class who yet lingered in France, by sending them each a distaff. "A combien de nobles qui hésitaient n'envoyèrent-ils pas l'ignominieuse quenouille .... et combien se décidèrent à partir pour se soustraire aux railleries!"

"They did not send me a distaff," observes the perruquier sorrowfully, but then he consoled himself with reflecting, that if he was too low in rank to merit the honour of the quenouille, possibly hereafter he might be found not high enough to deserve that of the guillotine. "For who would ever dream that a "perruquier chambellan se donnât les airs d'émigrer!"

'The revolutionists were preparing for a vigorous defence. Already had several battalions left Paris for the frontiers. Already had my old pratique, le ci-devant abbé Derigny, with many other brave patriots, repaired to the scene of hostilities; et moi, je faisais mes préparatifs pour ma ridicule émigration. To provide the necessary funds, I sold all I possessed; the marquis, for the same purpose, visited his agent, M. Moreau Déristel.

'This honest conscientious homme d'affaires, had been at first a furious and avowed aristocrat: he had then turned patriot from fear; and he had latterly become ultra-patriotic from interest. He had speculated largely and with success in assignats; had enjoyed plusieurs petits biens de moines, and already threw a comprehensive eye over the possessions of the dukes, counts, or marquises, in whose confidence he was, and whom he encouraged to emigrate. "Partez, triomphez," was his farewell address to them; "moi, je reste, mais c'est pour vous; 'tis only to watch over your interests, and promote the common cause."

'We found the roads crowded with volunteers hastening to the frontiers. They overflowed with spirits, and were singing gaily to divert the tedium of the march. In all the towns and villages along the route the feeling of hostility towards the enemies of the revolution had arrived at the highest pitch of exasperation. France appeared but as one large family, the members of which were all rallying against a common enemy. We carefully kept the secret of our destination, and assumed the tone and sentiments of the people. This universal enthusiasm caused me to reflect with some uneasiness on the step I was about to take; but so persuaded was M. le Marquis that this beau feu would evaporate in smoke, and the patriots so valiant at a distance fly at the first cannon-shot, that I resumed my courage. "How," argued he, "can raw levies, ill officered, and deserted by their leaders, resist the disciplined troops that are advancing against them?"'

Arrived at the last village in the French territory, and sepa-

rated from the enemy's country but by a branch of the Rhine, his misgivings recurred. "J'hésitai, je balançai .... je me décidai," and throwing myself into a bark, I crossed the Rhine, avec la même intrepidité que César en montra jadis en passant le Rubicon."

His hope of finding Coblentz a stage whereon to play the chevalier de Quissac with applause, was grievously disappointed. In the first place, his friend the marquis failed him. The latter had been received so disdainfully by some of his acquaintance, "tout fier d'avoir émigré avant les autres," that he had already on hand more than one quarrel on his own account. "Il a fallu me battre," said he, "pour mettre un frein à leur insolence: je ne me soucie pas de me battre pour leur faire croire à la noblesse de mon ancien perruquier." For M. le Marquis, "par légèreté sans doute," and without any ill intention, revealed, under promise of strictest secresy, to certain of his friends, that the newly-arrived chevalier de Quissac, about whom so many conjectures had been made at the table d'hôte, had at Paris been his perruquier! The tale was instantly in circulation, and M. le Perruquier de Quissac became the butt of the émigrés, as he had before been of the democrats. "Je pris brusquement mon parti: several of these messieurs still prided themselves upon the style of their coiffure. I renounced my title, et voilà M. le Chevalier redevenu perruquier." With his title he lost his affection for the cause of the noblesse, and had hardly emigrated before he became once again a patriot.

He could not, however, at present indulge his spleen. As he had emigrated, he must take a step or two with the émigrés; and this led him farther than he liked. He was obliged to serve as a private in the company of M. de Rinville, where, to console him, he had for comrades personnages "jadis hauts et puissans," magistrates, counsellors, and secretaries to his majesty. For himself, "j'étais le coiffeur de la compagnie!" "They say," observes he sagely, "that every man, be his courage what it may, must do homage to fear at the first shot he hears fired." This sentiment he felt in its full force; but the peculiarity in his case was, that the second, the third, and every shot, to the last he heard, frightened him as much as the first; "il faut que je ne sois pas né pour la guerre." The émigrés, to a man, like the marquis de Rinville, had anticipated a promenade rather than a campaign. They were soon undeceived, and in particular the corps to which Giffard belonged experienced sad reverses, and was driven far from the frontier. Our perruquier, of course, was not among the last to quit the service. As soon

as he could, with safety to himself, he retreated on Stutgard, resumed his practice as broker, and flourished as long as the émigrés had aught left to sell. But the resources of messieurs, even of the best furnished, were soon exhausted; and then of what avail were his "petits talens" among gentlemen of a long pedigree, doubtless, but without a sou in their pockets? Come what come would, the broker soldier émigré perruquier would return to France. "Rentrer en France!" He was not ignorant of the severe laws passed against the émigrés; "mais aura-t-on pensé, a-t-on pu penser à un pauvre diable comme moi?" And then, if put at all in the fatal list, he could be there only under his assumed name; and so M. le Chevalier de Quissac would bear away the sins of Giffard the perruquier. His confidence was greatly diminished on drawing near the frontier: what between the German pickets on the one hand, and the French pickets on the other; between the risk of being apprehended by the first as a deserter, and by the last as an emigrant, he was ill at ease: besides, the comments he had lately been in the habit of hearing on the horrors of the revolutionary regime, made him expect a blood-thirsty savage in every Frenchman he met. It was not without many such mis-givings that he found he had stumbled on a bivouac of French dragoons; but he was hungry, cold, and scarcely able to drag one foot after the other. He ventures to ask permission to warm himself at their fire, and the revolutionary savages treat him like Christians. "Les hussards me firent une place au coin du feu; je soupai avec eux. Un vieux maréchal des logis me couvrit de son manteau, et je m'endormis profondément."

He was awakened at day-break by the sound of "Qui vive?"—"Ronde du colonel." This colonel turns out to be his old friend, the abbé Derigny, who, only fifteen months before, had joined the army, a sous-lieutenant: "On voit qu'il n'avait pas perdu de temps pour avancer." The old acquaintance had much conversation with each other; in the course of which it appeared to Giffard that M. le Colonel had already contracted a camp-like "habitude de brusquerie," very unlike the modest, and even timid, deportment of the petit abbé. Already too an incipient love of glory was mingling with his passion for liberty. He shuddered as he spoke of what was passing in the interior. "But I look only before me; that way lies a prospect I love to contemplate—brave troops to head, and the enemies of my country to combat. Behind I see nothing but the scaffold and its victims."

As the report of fire-arms had taught Giffard that his vocation was not for war, his friend having first replenished his

purse with some assignats, gave him a letter of recommendation to one of the chiefs of the commissariat. He found his *chef*, le citoyen Rimbault, to whom the abbé-colonel had recommended him, a jolly bon-vivant, "qui riait toujours, et qui tout en riant faisait d'excellentes affaires. Il appellait tout le monde son cher concitoyen. Tout en traitant ses employés de chers concitoyens, il était, sinon sévère, au moins très-exigeant avec eux."

As for the citoyens, Giffard's fellow-clerks, there was a peculiarity in their mode of life that he found inexplicable. He knew that *his* salary barely enabled *him* to live, and he saw *them* revelling in luxuries. When, with much simplicity, he requested them to explain this phenomenon, one said, he had supplies from home; a second, that he had luck at play; and a third, laughed in his face! They were all unexceptionable patriots, and wore the bonnet rouge: "cela me gênait pas; il m'était facile de faire le patriote."

'There was one among them called Niquet, who, to give his name a more republican physiognomy, had lately assumed the prænomen of Brutus. Brutus filled a place under me, and it was part of my duty to inspect his accounts. One day I detected an error in them, and remarked it. He looked at me with surprise, but contented himself with observing, that with a mind occupied as his was with public affairs, it was not impossible that an error might have crept into his accounts. Not long after I detected more errors. Brutus did not bear it so patiently this time. With some sharpness he bad me not look so strictly after him, or he should be obliged to look strictly after me; muttering, at the same time, between his teeth, "Mais c'est un aristocrate que cet homme-là? Does he fancy I am come to the army to take the air?" His threat gave me no concern. I was on good terms with our *chef*, to whom my talent for flattery, acquired during my professional practice, had recommended me; "et je ne me lassai pas de relever sans pitié les erreurs que Brutus ne se lassait pas de commettre."

'However, one morning, M. Rimbault, still addressing me as his cher concitoyen, startled me by letting fall some doubts as to the purity of my civism; which was a point, he said, where he looked for the utmost strictness in all under him. I trembled as I bethought me of my emigration, and I tried to discover the source of his suspicions. He was not slow to inform me that citizen Brutus Niquet had intimated to him that I was but an indifferent patriot, if indeed I was one at all. "The villain!" exclaimed I, "I prevent his playing the knave, and he accuses me of being an aristocrat!"—"What's that you say? knave!" returned my *chef* quickly; "explain yourself, I insist." I was obliged to reveal the petty frauds in which I had detected citizen Brutus. "Oh, that's all," resumed my principal, instantly recovering his self-possession, on finding that it was not himself, but the republic that had been defrauded. "So, so," continued he, "Niquet se permettrait de

ces espiégleries? le rusé! je ne lui aurais pas cru tant d'esprit. Au surplus, mon cher concitoyen," ajouta-t-il d'un air sérieux, "je vous approuve, je vous approuve beaucoup; continuez de surveiller Niquet ..... sans trop le chagriner pourtant: c'est un commis fort intelligent, et un excellent patriote."'

Accordingly Giffard continued to overhaul strictly the accounts of citizen Brutus; the consequence of which was, a second summons to attend his *chef*, who informed him that he had been denounced to a "representant du peuple en mission," as a suspected person, and as having signed "les pétitions liberticides des huit mille et des vingt mille."

'"The representative has ordered me," continued citizen Rimbault, "to make a report to him upon your principles and conduct. Now, my dear concitoyen, you know I feel the sincerest affection for you, but you cannot expect me to ruin myself for you; and if, to-morrow, I presume to bear testimony in favour of your civism, my own will become suspected. I have no other resource than to denounce you myself, and you have none but to quit the place instantly." This discourse of mon cher concitoyen confounded me; but, on reflection, I judged it best to be silent; and from my knowledge of the mœurs revolutionnaires, I even doubted whether I ought not to thank him for being good enough not to denounce me before he told me his intention. All were not so obliging.'

Giffard lost no time in taking his place by the diligence for Paris. "So," said he, as it bore him out of town, "for endeavouring to prevent a clerk in the commissariat from robbing the republic, me voilà denoncé. However, for all that, I am resolved to adhere invariably to my principles." The word "invariably" made him smile in spite of his gravity, as he counted upon his fingers how often, since the beginning of the Revolution, he had been a patriot, and how often an aristocrat.

Giffard arrived in Paris precisely at that "bizarre époque de la terreur," when the dominant factions, having proscribed or imprisoned all the aristocrats, had begun to denounce one another, and were striving which should send the other to the scaffold. Our perruquier's passion for people "comme il faut," suffered a mortal shock at the sight of the words, *National property to be sold*, inscribed in large red letters on the walls of several capital mansions, and particularly on those of the handsome hôtel of the marquis de Rinville, of which he had once so much coveted the possession. The company into which he had entered, for he had now turned actor, were all "horriblement patriotes." The fashion of the day was to assume the names of ancient heroes and philosophers. Plato, Cato, Solon, Aristides, and Publicola, were all to be found on

the boards of the petit theâtre des boulevards. They played none but vaudevilles and dramas, in which "l'emphase patriotique était entremêlée de petites scènes d'amour bien niaises et bien doucereuses." Giffard, as usual, found it expedient to swim with the tide. "Je me crus obligé de faire le patriote forcené au milieu de tous le forcenés patriotes dont j'étais entouré." He dressed himself *en carmagnole,* became a member of a popular club, and cried with the loudest against aristocrats and ci-devants, refractory priests, moderates, federalists, and all the agents of Pitt and Cobourg. Finally, he laid aside his Christian name, Laurent, "et me voilà Sénèque Giffard." But citizen Seneca continued still to be very Giffard; showing himself, as heretofore, "braillard," but not "féroce." "Je lançais des mots terribles, et c'était à moi surtout qu'ils faisaient peur."

'There was in our club a person whose excessive patriotism would have been matter of astonishment to me, if I had not possessed a clue to it in my own. This was M. de Volnis, the ecrivain philosophe. In the early days of the Revolution he had been the loudest to censure the heats of the Constituent Assembly: in the violence of the Convention he now found nothing of which to disapprove. We were mutually afraid of each other: he bethinking him of his aristocratical effusions, and I of the warmth with which I had commended them. It would have been amusing to observe the distrust—the alarm—we reciprocally betrayed; how suspiciously we eyed one another; how we vied in our flights of patriotism, and how we strove at the tribune each to surpass the other in the energy of our revolutionary eloquence. M. de Volnis had formerly treated me with a haughty condescension: at the Jacobin club, citizen Volnis was affable and deferential.'

But Giffard's "patriotisme exagéré" entailed upon him one inconvenience. If his "mots terribles" imposed upon the persons he feared, they served equally to delude the persons whom he loved. Consequently, he had the satisfaction of seeing his presence create as much alarm among his friends as though the terrible "comité revolutionnaire" of the district had made a descent upon their dwellings. At the same time, though after the manner of persons who play a part out of fear, he far outdid his sincerer colleagues in loudness of voice and vehemence of gesture; so as often to excite them to a "grande tendresse patriotique" towards him; yet when any business was to be done—an arrest to be executed, or an information laid—his backwardness subjected him to suspicions. It was not long before Scévola Giroux, one of the "surveillans" appointed to watch over the suspected, and whom the latter used facetiously to denominate *leurs bonnes,* because they followed them every where as a nurse does her charge, undertook

to denounce our unlucky hero at the club, as guilty of tenderness for aristocrats. He was asked for proofs. "Les preuves?" said citizen Scévola, "Je n'en ai pas; mais j'ai un pressentiment, un instinct patriotique, qui m'avertit des crimes du dit Sénèque." Citizen Seneca was obliged to conceal himself: "Me voilà donc suspect à tout le monde!" The 9th Thermidor enabled him to show his face again, and inspired him with so much courage, that he was tempted in his turn to mount the tribune, and denounce Scévola Giroux.

But Giffard reckoned without his host. On the night of the 9th Thermidor, his sorties were as violent against the Jacobins as they had lately been against the aristocrats. But these did not render people oblivious. The neighbourhood pointed him out as a terrorist, and this was now the name under which men were proscribed. Giffard absconded once more, and, for the greater security of his precious person, enrolled himself in the *troupe dorée,* or *Jeunesse dorée,** a class of young men who at this epoch undertook the task of waging war upon the Jacobins in the cafés and theatres; and of hunting down, as terrorists, all the more active partizans of the Revolution. To set themselves at the greatest distance from their opponents, they were as recherché in their dress as the sans-culottes were squalid and negligent. They wore their hair *à la victime,* entitled themselves Friends of Humanity, and, under that title, became the pests of all public places. "Not one among us, if we might be believed, but had had friends guillotined, or, at the very least, imprisoned. Moi! m'intituler victime de la terreur!"...

'From their head-quarters, the café de Chartres, we sallied forth daily to achieve particular acts of philanthropy. One time it was to close the "den of the Jacobins;" at another, to break in pieces the busts of Marat; now it was to hiss some piece as too revolutionary; and now to assail some actor suspected of Jacobinism.

'The term "suspect" was still in the mouths of all, but it was differently applied. Those against whom it was first used, now employed it in their turn against its inventors. The term "patriote" was also as much in use as before, but the quality was changed. Before the 9th Thermidor nothing had been seen on the stage but patriotic pieces, and after the 9th Thermidor, patriotic pieces were equally in vogue. In both alike there were the oppressed, the oppressors, and the liberator. Under "la terreur" the oppressed were the people; the oppressors, the nobles and priests; the liberator, the jacobin deputy. After "la terreur," the oppressed were "des cidevants," the oppressors, the jacobins, and the liberator the philanthropic deputy. The dénoûement was the same—the tocsin, the call to arms, the downfal of tyranny, and the

* Mignet, chap. X.

representative (jacobin or modéré) setting open the prison gates. The actor was never without a character to personate. Yesterday he was the député montagnard et liberateur, to-day he is the député modéré et liberateur. The downfal of each oppressive faction opened a fine field for the talents of the dramatist. "Mais l'oppression qui succède! celle qui est en vigueur! Oh! celle-là on la respecte, on la vante même." '

Under the Thermidorian regime, neither M. Giffard nor M. de Volnis was surprised at seeing each other in the café de Chartres. The philosopher advocated his principles for the time being in a journal, and employed Giffard as *ruisseau littéraire,* or collector of on-dits, anecdotes, rumours, and scandal. Our perruquier now looked upon himself as a man of letters, and he sums up his present character in words applicable to the whole "troupe dorée." "Grand philanthrope et prêchant la vengeance; plein d'insolence, d'arrogance, et vantant l'urbanité, la douceur, et l'aménité des anciennes mœurs."

Giffard's connection with an anti-republican journal, and with the jeunesse dorée, naturally led to his taking part against the Convention in the busy sittings of the sections previous to the 13th Vendémiaire.*

'Je fus un des motionneurs les plus mutins, et le plus braillards. Je raissonais, je pérorais, je déclamais, j'enflammais les hommes froids, j'encourageais les timides. On the night of the 13th, transported by my beau zèle, I moved to have the générale beat. The motion was received with loud acclamations. Another member moved that the order should be signed by the individuals present. I supported him with all my might. "Oui, oui, oui," was shouted on all sides. There were assembled about four or five hundred of us, and some twelve or thirteen rushed eagerly to the desk to affix their signatures. I cried out to sign, sign; but perceiving that many were silently withdrawing, I remained in my place. "The time is come!" shouted I, "Let us rise! let us rise!" I was not among the last that went quietly home.'

The Convention was victorious, and Giffard again in hiding. Combien je me felicitais de n'avoir pas signé cet ordre de battre la générale que j'avais provoqué!" But when it was understood that the sentence was not to be executed upon those who had been condemned, vanity rose superior to terror, and he regretted that his name had not appeared in the proceedings: "Je ne sais si je n'aurais point été flatté d'être condamné à mort par contumace."

His friend Durosay now offered to procure him une petite place de garde-magazin in the army of Italy. The proposal was flattering: much was to be made in the commissariat, he was aware, and then, as he observed to his friend, it was perhaps

* Mignet, chap. XI.

not amiss that he should leave Paris for awhile, where he was a *marked* man. '"Mon cher ami," me répondit-il, "ne vous desabuserez-vous donc jamais de l'idée que tout le monde a les yeux fixés sur vous?"'

'A la suite de la glorieuse armeé d'Italie qui étonna la France et l'Europe par une rapide série de victoires éclatantes, marchait une autre armée de fournisseurs, sous-fournisseurs, administrateurs, directeurs, inspecteurs des vivres, des fourrages, de l'habillement, garde-magasins, gros et petits commis qui du haut des Alpes avaient jeté des regards de convoitise sur les riches et brillantes contrées dont nos soldats allaient faire la conquête, j'étais du nombre.'

On reaching Milan, Giffard hastens to pay his respects to his official superior. M. de Saint Estève eyed his new subaltern attentively, who, in turn, eyed M. de Saint Estève.

"Je cherchais où je l'avais vu. . . . C'était mon ancien camarade de l'armée du Nord que j'avais dénoncé pour sa friponnerie, et qui m'avait dénoncé pour mes opinions. A l'armée du Nord c'était Brutus Niquet; à l'armée d'Italie, c'était Niquet de Saint Estève. . . . C'était mon chef, je lui fis la cour. Il eut la bonté de m'admettre à ses partées de plaisir, et nous ne nous dénonçâmes ni l'un ni l'autre..... Niquet was reclaimed from the idea that a good citizen was called upon to concern himself about the civism of his neighbours; and I, on my part, thought that one ought not to require of a clerk in the commissariat the precision of a moralist.'

At Milan also he stumbles once again on his friend the abbé Derigny, now a général de brigade.

'From his conversation it appeared to me, that his patriotism was a little diminished, his love of glory considerably increased, and qu'il était fortifié par un grand amour des hauts grades militaires. When I spoke of our victories, he replied with enthusiasm; when I spoke of the republic, he replied with bitter disdain. The sole object of his admiration, or rather of his idolatry, was his general-in-chief, Bonaparte. He pronounced him a hero, and he expatiated on the plans which his hero was meditating for the regeneration of Italy. "It belongs to great men," said he, "and not to assemblies of rhetoricians and speculators to found the glory and the happiness of nations!" Enthusiasm for an individual had already superseded, in the breast of citizen Derigny, enthusiasm pour la patrie.'

The preliminaries of Leoben put a period to Giffard's services in the army of Italy. He had left France poor, thanks to the commissariat; he was returning to it rich. "J'avais brillé à Milan; je revenais briller à Paris: quel plaisir! Je prenais ma parte des triomphes militaires; j'étais aussi fier que si j'avais combattu au lieu de fournir." The wealth of Giffard quickly procured him a wife to spend it; and she returned the

pliment by making Giffard a député: at least her intrigues contributed very powerfully to his election. He had but one competitor, le citoyen de Volnis, his old pratique. But the contest was quickly decided. "Sa fortune était médiocre; j'étais riche: il était garçon; j'avais une jolie femme: je fus nommé. Je suis donc député!" and once a deputy, a man must be something or other all his life after. He now believed himself gifted with eloquence, with information, with wit, and even with "un peu de génie." But to what department of public business should he devote himself? "Je suis propre à tout, je suis en état de raisonner sur tout." But should he occupy himself with the marine?....with foreign affairs?....with the colonies? No, his forte lay in finance, "c'est là que je peux briller." Above all, he was resolved to obey no impulse but that of conscience, "à me prononcer en vrai patriote, en franc republicain," to keep the government strictly to the line of its duties, and to prevent at once the return of anarchy and of the old regime!

But now to the proof. One of his colleagues solicited his vote in behalf of two members of the Directory, and by demonstrating that he was a ruined man unless he joined that side, convinced him that it alone was "le vrai parti national." Another person, by dint of similar arguments, had meanwhile proved to his wife, that the remaining three directors and their supporters alone constituted "le vrai parti national," and she had pledged him to vote "toujours dans leur sens."—"Ainsi donc me voilà engagé de deux côtés!" This was an awkward dilemma to fall into at the first step; still "Qui sait, si je ne vais pas sauver l'état! au moins je vais briller."

'The sight of the Five Hundred *en costume,* not one of whom but seemed to me an absolute Aristides—the vast hall—the galleries crowded with spectators—the tribune of the speakers—quickly restored me to myself. "Je me sentis mesquin, petit, déplacé." I had taken my seat with the intention of speaking the very first day; and I should have kept my word if I could have found a word to say.

'Once, only once, I ventured to mount the tribune. A motion just made had filled me with indignation. I began in a loud voice, "Citoyens...." Here my courage failed, and in a voice less assured, I began a-fresh: "Citoyens, mes collégues...." Je balbutiai, je brédouillai, je m'embarrassai. I sought to recover myself by a violent sortie against the royalists, who, I said, were in a conspiracy against the republic, and I was coughed down by the modérés. To disarm their hostility, I denounced the jacobins, as bent upon renewing the reign of terror, and I was coughed down by the remnant of the mountain. Here I lost myself, and ended abruptly with, "J'appuie la motion du préopinant."

'From that moment I was dumb. I opposed nobody. In private I was of every body's opinion, in public of the majority's. But then, comment la connaître cette majorité? Sometimes I rose when I should have sat still, and sat when I should have risen. This drew upon me the murmurs of some, and the laughter of others. Then my wife was so inconstant, so capricious: to-day she would upbraid me for following the advice she had given me yesterday; and the Directory were as inconsistent as my wife. I endeavoured to learn which way I ought to vote, but in vain. On faisait et on defaisait; on avançait, on reculait. I had expected the title of deputy would add to my consideration; and my silence, mes complaisances, mes apostilles, only made me ridiculous. *Non, il n'y a rien qui rende un homme plus sot, plus imbécile, que d'accepter des fonctions au dessus de ses facultés! Quelques bienheureux imperturbables sont faibles et se croient forts, sont petits et se croient grands. Mais moi! il me restait encore trop de bonne foi, trop de bon sens....je n'avais pas encore une assez grande dose de vanité pour ne pas sentir mon insuffisance.*'

Poor Giffard! At this crisis, an event took place which raised the expectations of all France. Bonaparte landed at Fréjus. All parties, republicans, modérés, jacobins, even royalists flattered themselves the conqueror of Italy was coming to give them the preponderance. As for Giffard, he thought le grand général had returned expressly to relieve him from his awkward position. He had so. Giffard was of the number of the deputies who, on the 18th Brumaire, on the approach of the grenadiers, leapt out of the hall-window.* "In the park (it was at St. Cloud) I met one of my colleagues; we were both of us still *en costume*. 'La farce est jouée!' said he to me, 'où se déshabille-t-on?'"

Giffard returns to Paris "tout bouleversé." But a new constitution was now promulgated, in which there were to be tribunes, legislators, senators, and a council of state. "C'est à merveille! il est impossible que je ne sois pas quelque chose."

'My wife ceased not to exhort me to bestir myself, and I did bestir myself. I canvassed, I solicited, I intrigued. The senators were appointed, but I was not one. The tribunes, legislators, counsellors of state were named, still I was not one. Quelle humiliation! Cette nouvelle constitution me semblait très mal faite."...."How comes it," said I, "that when every body else is provided for, I alone am forgotten?"—"Will you promise me not to be angry?" said the person whom I addressed, and who piqued himself on his frankness...."vous avez été perruquier." I stood aghast. "Well," returned I, as soon as I had recovered myself, "I *have been* perruquier, but what then? are we not all equal?"—"True, but they begin to think that people well

* Mignet, XIII.

born and bred are the properest persons for legislators" .... And is it thus, thought I, that the first consul intends to govern France? To make it a crime to have been a perruquier! 'Tis all over with the republic now however. Voila la contre-révolution: le premier consul tend évidemment au despotisme; il veut rétablir l'aristocratie.'

The elections took place. But a beau jeune homme, and a pretty wife, and dinners and cajoleries, and magnificent words, could not longer make a deputy. This was now the province of the Conservative Senate. "These complicated forms of the new constitution," said I, "are only good to shelter intriguers."

Excluded from a share in the management of the nation, Giffard consoles himself with undertaking that of a minor theatre. His administration was brilliant; his receipts great; his expenses greater. His grand ballets were especially admired. The Opera took the alarm, and laid them under an interdict; and Giffard grew yet more discontented with the First Consul and his government.

"C'est son dix-huit Brumaire qui a interrompu ma carrière politique; c'est pour la plus grande gloire de son opera que mon entreprise est renversée. How vexatious to be obliged to admire "ce maudit homme," whom France proclaimed her saviour, but who had not called M. de Quissac aux hautes fonctions de l'administration!

On a sudden Giffard becomes a warm advocate of the First Consul: and, as usual, it was his wife who supplied him with the reason. At a select party, it appeared, that she had met "une dame très-élégante, de très bon-ton," with whom she had talked much scandal of the persons present; they consequently became fast friends. The lady's husband, a person of a grave presence, and an air of wealth, appeared to be somebody, for every body had risen on his entrance, and every body evinced anxiety to obtain of him a moment's private audience.

'Ma femme les observait; elle voyait l'homme qui avait sollicité l'entretien parler avec respect, avec vivacité, avec désir de convaincre ou d'intéresser; elle voyait M. Philippe, tantôt attentif, tantôt distrait, laisser échapper quelques mots que l'interlocuteur saisissait, recueillait, non sans de grande marques de reconnaissance: puis M. Philippe interrompait l'entretien, et toujours grave, silencieux, venait reprendre sa place au milieu du circle, jusqu'à ce qu'une autre personne eût obtenu de lui la même faveur.'

"Eh, bon Dieu!" thought Madame Giffard, who can this be, who seems to carry on his forehead the weight of the affairs of all Europe? In answer to her inquiry "tout bas," the mistress of the house, with a smile of peculiar self-complacency, gave her to understand, that she had at that moment the honour of

entertaining in her house, M. Philippe, maître d'hôtel to the First Consul, and Madame Philippe, femme de chambre to the First Consul's wife. There was a connection! Madame Giffard "redoubla prévénances d'amitié pour madame Philippe; elle fit agréablement la cour au mari." The result was, that Giffard obtained the protection of M. le maître d'hôtel, and of madame la femme de chambre; the fruits of which were a private order to the authorities "de ne me chagriner," and certain indemnities, gratuities obtained under the colour of—he was puzzled to say what.

'Oh! comme mon opinion politique était changée! quel grand homme que le premier consul!... Je partageais sincèrement l'enthousiasme que le consul inspirait à la France, à l'Europe, et son honnête maître d'hotel..... With what zeal did I give my vote in favour of the consulate for life! There was not an individual in my theatre, from le premier rôle to the scene-shifters, whom I did not constrain to go and give in his adhesion. I should like to have seen the man bold enough to refuse his voice on that occasion.'

But now there ran a rumour of a title more imposing, more august than that of First Consul. M. le maître d'hôtel was all discretion and mystery: but the few words he let fall intimated that great affairs were on the tapis. Well, it is no longer a secret that the First Consul is to be Emperor of the French; and Giffard and madame hasten with their respectful homage to M. le maître d'hôtel and madame la femme de chambre.

'Mais ô disgrace! Already had the chamberlains, equerries, prefects of the palace, masters of the ceremonies, ladies of honour, and other grand personages, been appointed—installed; and the old domestics had found themselves obliged to give place to the new. Madame Philippe had done very well for confidential femme de chambre to the wife of the First Consul... mais d'une imperatrice! Philippe le maître d'hôtel had been sufficient to control the household of the First Consul, but his majesty the Emperor and King could be served only by great officers and titled functionaries, who parted among them poor Philippe's authority. Their majesties to be sure were as affable as ever, but M. Philippe and his wife were now but subalternes sous d'autres subalternes... Comment pourraient-ils être utiles à leurs amis?... Nous oubliâmes bientôt ces chers amis...'

Giffard was now near the end of his *degringolade*, when, as he observes, one's descent is fearfully rapid. It quickly bore him into the prison of Sainte-Pelagie. In the first ardour of his passion for managing, he had exclaimed, "Quelle place charmante que celle de directeur d'un théâtre!" But he soon was convinced of a truth which forces itself upon the notice of most speculators in this line: "Je crois qu'il n'y rien de si rapide

pour amener la ruine d'un homme qu'une entreprise de théâtre qui va mal."

In the Sainte-Pelagie, our perruquier grew a wise man. He would henceforth live a settled life, and he would resume his original profession, which, "grace au perfectionnement des faux toupets et à l'invention des cheveux implantés," was still not unworthy the application of a man of genius. Giffard is released from prison, and instantly re-commences the life of an adventurer. One day, as he was crossing the Carrousel, with not a sou in his pocket—

'I beheld a train of carriages, escorted by a guard of honour, issue from the palace. It was the empress setting out for Malmaison. I remarked a general officer riding in capacity of equerry at the door of the carriage, and instantly recognized in him le général Dérigny. "Ce petit abbé!" me dis-je avec amertume, "il a fait son chemin, lui!" But the course of my reflections was changed by the sight of another person, in a dress of scarlet and silver, who rode in a carriage immediately behind that of the empress . . . Serait-ce? . . . Oh! non, cela n'est pas possible. The carriage draws near—passes me close—I am not mistaken. The costume of chamberlain cannot hide from me an old pratique: it is M. de Rinville! Only think, said I, M. le Marquis de Rinville, the aristocratic marquis—the émigré, chamberlain at the court of Bonaparte! And then, again—Dérigny, le petit abbé Dérigny—that patriot—that enemy of titles and privileges—sworn foe to arbitrary power, caracoling as equerry at the door of an empress's carriage! Ah! quand ils se rencontrent dans les salons du même palais, après avoir suivi des partis si opposés, peuvent-ils plus s'empêcher de rire que ces deux augures dont parle Cicéron?'

These reflections soon gave way to others more in character. The abbé Dérigny—his old pratique—general of division—grand equerry—high in favour. "Oh! here is a patron worth far more to me than poor M. Philippe, le maître d'hôtel, and madame Philippe, la femme de chambre."

'On the morrow I presented myself at the general's. He lived in a large house: servants in rich liveries lounged in the hall. I noticed particularly a tall chasseur, in green and silver, and a valet-de-chambre, qui avait l'air d'un monsieur. I was told that M. le général could not be seen; that nobody was admitted to M. le comte without a letter of appointment. At last I prevailed on them to announce me; and after waiting a long time, I was introduced.

'The general had just completed his toilette. His coat was loaded with embroidery, and the cross of the legion of honour, with other decorations, was conspicuous on the breast. Along with the insignia of the new, he had acquired all the formality, the stiffness, the hauteur of a nobleman of the old court. "Good day to you, monsieur Giffard," said he; "what motive brings you hither? Can I be of any service?"

I made shift to relate, in as few words as I could, my unhappy condition, and the hopes I had formed upon his protection. He reflected an instant; then, saying that at present he had no place at his disposal, he offered to give me a letter to M. le duc Dorbès, un grand personnage, parent de sa femme, qui était à la tête d'une vaste administration. I thankfully accepted his offer: he sat down, and I remained standing while he wrote. Just then, his chasseur announced a message from court. He rose, received it with an air of profound respect, put what he had written into my hand, and, without noticing my humble reverence, hurried down stairs, stepped into his carriage, and drove rapidly away. I had no opportunity of sounding his political sentiments, but I remarked that the ci-devant patriot never pronounced the name of his majesty the emperor, or her majesty the empress, without a most courtier-like emphasis.'

The letter of recommendation obtained for Giffard the place of "huissier du cabinet." Yes; the "grande protection" of monsieur le général comte Dérigny had promoted our hero to the place of cabinet porter to his excellency, monseigneur le duc Dorbès, "parent de madame la comtesse et à la tête d'une vaste administration." He takes the matter, however, "en Français, spirituel et philosophe. En verité c'était une place fort douce . . . sauf la sonnette et l'ennui." His only source of uneasiness was, lest among the members whom he daily ushered in to his excellency, he might stumble on some old camarade—some former colleague—some one whom he had known in his prosperity.

'One morning I had manœuvred successfully to avoid being recognized by a dancer of my theatre, and an old colleague in the Five Hundred, and was congratulating myself on my escape, when whom should I see enter, avec grand fracas, and in the splendid costume of chamberlain, but M. le Marquis de Rinville. How to escape recognition? I knew he was short-sighted, and I trusted that . . . but no. Il s'avance vers moi intrépidement, armé d'une petite lorgnette qu'il braque sur ma figure. I dropped my eyes—turned aside my head—in vain: "Eh! c'est Giffard!"—"The same," said I, trying to put a good face on the matter. "What!" resumed he, in a tone of impertinent pity, "my poor friend, porter to the duke Dorbès!"—"What," retorted I, "M. le marquis, chamberlain to Napoleon Bonaparte!" I saw I had pierced through his triple mail of self-conceit. "Why, my dear fellow, what would you have?" he replied, stammering, "circumstances . . . . events . . . . unlucky events . . . ." Monseigneur's cabinet-door here opened, and I was obliged to announce M. le Chambellan de Rinville.'

Secrets in Giffard's ménage, which we shall not disclose, had kept him from seeking an introduction to his old patron. He now resolves to present himself. M. le Chambellan resided in a magnificent hôtel, but his apartment was on the third floor, "et presque aussi modeste que le mien." The ground and first

floors were inhabited by his former steward, M. Déristel. The émigré marquis had recovered only a small part of his estates, and M. Moreau Déristel, thanks to the revolution he had so much execrated, was a man of large property. Notwithstanding Giffard's retort to the émigré chambellan, his old pratique received him with great good humour.

'Then sit down—no ceremony: are we not all equal since this blessed revolution, which, thanks to God and the emperor, is drawing to a close? .... Yesterday you half reproached me with having accepted office under the new regime. In that I have but followed the example of the rest of my party. Why should *I* be ashamed? The emperor, too—is he not a man .... a man .... a man, in short, out of the common line .. general ... statesman ... legislator ... No, no; I have no reason to blush at having attached myself to him, especially as he honours me with his esteem; and I am able to make my way in his court as well as in the old one .... c'est très beau."—"Oui, sans doute, repris-je, et très avantageux, pour tous ceux qui ont le bonheur de vous être attachés."'

The domestic reasons which had indisposed Giffard to making an application to the marquis, secured the success of it now that it was made. The chamberlain had interest enough to procure for his old perruquier the place of *contrôleur de ville, à Roanne, département de la Loire;* and while madame Giffard was exclaiming upon the impossibility of exiling herself from Paris, she was suddenly summoned to a more distant quarter. We wish we had space to draw the curtain more ceremoniously upon this unique character, the flower of couturières and the pink of grisettes. But the lament of the husband must needs satisfy *us*—"Mourir si jeune! pauvre Thérèse!"

"Me voilà donc veuf, sans enfans, et libre comme un garçon." Whether it was grief, or the want of conjugal control, the contrôleur de ville comported himself far less respectably than the fournisseur or the député. He entered his office, "bien décidé à flatter ses supérieurs," and to indemnify himself by lording it over his subordinates. Complaints arose of partiality, and the contrôleur was reduced to the rank of *commis à cheval.* He remonstrated—complained—"on me conséilla de me taire; par prudence je me tus." To dissipate his chagrin, he takes to drinking: errors creep into his accounts, and accusations of connivance are preferred. He is reduced to the lowest grade *dans les droits réunis*—that of *commis à pied.* He was more indignant than ever; but the angrier he grew, the more he drank, and the less he attended to business. He was dismissed: he had trusted to his "petites flatteries, petites intrigues," for making his way rapidly in the service. He had done so, "mais ce fut un chemin retrograde."

He would now return to private life—he would no more accept of office—he would turn philosopher. On these terms alone would he consent to remain "au milieu de cette France asservie," where his talents had been so ill rewarded . . . . . "Je me fis barbier dans un village du Dauphiné."

Giffard, in his retreat, studied Candide, and beguiled his leisure with musing on the six kings, who, "pour passer le tems," are found amusing themselves at the carnival at Venice. "Et moi aussi, je suis un roi détrôné; j'ai été député riche, et me voilà pauvre et barbier de village. The philosophy derived from Candide, he strengthened by living examples. At this very time, the old king of Spain was at Marseilles; the young one at Valencey; the ex-king of Sweden on his travels; the majesty of Naples in Sicily; he of Portugal in the Brazils, and the pope at Fontainbleau. "Oh, me," said Giffard, "if they were to take it into their heads, or were at liberty, to direct their steps to the Adriatic, how many majesties incog. might meet to spend the carnival at Venice!"

Giffard, on his departure for the provinces, had left the emperor at the summit of his glory. "La France et l'Europe se taisent devant lui," was a common saying, in which the ex-deputy, insolvent manager, malcontent, was fain to acquiesce. "Je compris que je devais me taire comme la France et l'Europe." It was now near the end of 1813; and Giffard could perceive, as he shaved the travellers who alighted at the aubèrge (from whom he seldom failed to extract "quelques on-dit, quelques confidences, quelques indiscretions"), that admiration for le grand empereur was on the wane. "Ami," said an old émigré camarade of the perruquier's, whom he had recognized as he flourished the razor over him, "tout ne va peut-être pas si mal pour l'autel et pour le trône! Voilà toute l'Europe qui se réveille! qui sait?" . . . Then, as if afraid he had gone too far—"Upon my soul, I think you have still as light a hand as when you shaved the regiment!"

On the contrary, the official people who passed through his hands wore faces much less satisfied than of yore. An old colleague of Giffard's, in particular, one of the Five Hundred, "grand republicain" then, but converted by the 13th Brumaire into a senator of Bonaparte's, takes blame to himself for not having acted on that day up to his principles. "Had we but resisted! . . . 'Tis true," muttered he, "I should not now have my sénatorerie . . . . but," in a still lower tone, "shall I be able to keep it!" Then, as if alarmed, like the émigré, he suddenly changed the discourse, and launched out into something about the star of Napoleon.

"Oh! oh!" said Giffard, "opinions are changing, parties are fermenting; the émigrés are hoping, and the senators trembling. As I live, there will be a bouleversement. S'il s'y trouvait quelque chose pour moi." The perruquier had hitherto gossiped amicably with the village elders; but that night he quarrelled with them all: "J'eus une querelle littéraire avec le vicaire, une querelle politique avec le mâitre de poste, une querelle théologique avec le curé." He got not a wink of sleep the whole night, and rose in the morning, convinced that it was a shame his talents should be of no other use "que celle de faire la barbe à ses concitoyens."

Great news at the aubèrge! The "corps legislatif," dumb from its birth, had suddenly found the use of speech, and had exercised it in an energetic address to his majesty—"du moins assez énergique pour le temps où nous vivions." His impatience now fairly boiled over. He sets out; his thoughts wing their flight back to the memorable days of the Revolution; he expects to find all Paris in an uproar. "J'arrivai!... tout était tranquille, calme et soumis." And the emperor had replied to the corps legislatif by.... closing the assembly!

He meets an old acquaintance, a lady, and hazards a word or two about the recent events: "Elle les ignorait!"—"Diable!" said Giffard to himself, "people are mighty indifferent to the controversy between notre grand empereur and the corps legislatif. Here now is a good lady who knows nothing about the matter. It was not so in the days of the Revolution; "les femmes s'en occupaient."

Curious to learn what the old patriots thought at this crisis, he pays his respects to general Dérigny, who was then in Paris, just recovering from a wound. He found him full of complaints. He complained of his wound, that had kept him from the field—of his juniors, who in the mean time had got the start of him, and been made maréchals—of his superiors in command, who seemed to have forgotten his existence.

'I thanked him for his kindness to Henri. "Ah! oui, your wife's son I believe. Yes, he is brave, but that is no merit. By-the-bye, I would have you recommend him, when you see him next, not to give himself up to those idées de philosophie, d'idéologie, qui visent trop au républicanisme. Obedience—uncompromising obedience, and, above all, devotion, are the qualities we look for in a soldier."—"Yes," replied I, anxious to be civil, "devotion, of which you have yourself given so bright an example;"—"c'est pour un dévouement pour votre patrie"... —"Oh! la patrie!" interrupted he, with a shrug of his shoulders. He stopped—drank a glass of vin d'Espagne—was silent, and I durst not resume the discourse.'

Giffard next waited upon M. de Rinville. He found him busy projecting a fête to be got up, by way of surprise, for the empress Marie Louise, "dans les petits appartemens:"

'"For you know," added he, "in the present posture of affairs it would not be thought quite correct to give entertainments trop eclatans. But it is these private fêtes that require most skill—most contrivance—most genius. Now I want an active person—intelligent pour une foule de détails, and you are exactly the man for my purpose." I confess I was not a little surprised at finding the court occupied with fêtes at the present crisis; but of course I said nothing to M. de Rinville. I only congratulated him on the rapid rise which le jeune Henri had made in his profession. "Ah! oui, oui," me dit-il, "diable! mon Henri, le fils de ta femme, notre fils, c'est un joli sujet; il me fera honneur... It will be a proud moment when Henri has distinguished himself enough to be introduced to the emperor; when I am able to say how, a mere boy, le jeune homme était déjà frappé d'admiration pour les hauts faits du grand Napoleon." Here I could not help sounding the marquis cautiously and distinctly on the present posture of affairs—"Ah! well... affairs... a little critical just now... yes, I know what you would say... Spain... Russia... Europe and the corps legislatif, qui veut faire le factieux. Mais le voilà déjà mis à la raison... As for the allies... Oh! I grant our emperor has gone a little too far—been a little... Que veux tu? The strongest heads are liable to error, but all will end well—Europe will submit to peace on the emperor's terms, ou ma foi tant pis pour elle. Pensons à notre fête.

'"Thus," said Giffard, "I come to Paris, not certain whether I may not be called on to take a part in opposition to the emperor; and behold, I am engaged to assist in getting up a fête for the empress!"'

The next day, Giffard found the marquis lecturing le jeune Henri on the subject of those idées de philosophie which, according to the ci-devant patriot general Dérigny, bordered too nearly on republicanism. The young man, it seems, had even gone so far as to question the propriety of serving in the army, and even to request to be allowed to lay down his commission. But the war having now recoiled upon France, and become one of self defence, the young patriot had eagerly retracted his request.

'"Bien, fort bien," dit M. de Rinville... Oui, c'est un devoir pour un jeune homme de défendre son prince; et toi, qui, dès le collége étais si enthousiaste de notre magnanime empereur... certainement ce n'est pas dans ce moment-ci... Aussi je m'étonnais... Mais, grâce au ciel, tu as reconnu ton erreur. Henry contented himself with replying, that under the present circumstances he should blush not to fly to the succour of his country. "Oui, oui," dit le marquis, "la patrie... et l' empereur. Parce qu'il a éprouvé quelques revers, il y a des imbéciles qui croient... Mais aidé de toi et des braves qui te ressemblent, il se relèvera et il continuera de faire le bonheur de la France; et des gentilhommes, et

de tous les hommes de bien qui auront le bon esprit de s'attacher à lui." Henry replied once more, that he should always be ready to serve his country. "Et l'empereur ... surtout l'empereur," repliqua le vieil émigré.'

The next day, Giffard, to his surprise, found M. le Marquis "toujours si fat et si content de lui-même"—meditative, anxious, and occasionally deep in reverie. Henri had called to take leave, and was expressing himself with warmth on the noble duty he was going to discharge.

'The marquis shrugged his shoulders and cast up his eyes. "Oh! you young men—you always see things en beau. Why now I suppose you imagine the enemy already beaten? but I—I have had experience, and... Have you done well to recall your commission?"—"Did you not yesterday, sir, congratulate me on having done so"—"Yes, certainly—yesterday; but you cannot dissemble that circumstances are very serious, and when I think that we have been brought to this pass by a mad love of conquest..." On my word, I do believe if Henri had taken it into his head, as he had done the day before, to speak slightingly of notre magnanime empereur M. le Chambellan would not have rebuked him.'

Giffard took the first opportunity of inquiring the reason of this sudden change of sentiment. It appeared by the reply that the marquis had been, in the interim, chez la petite vicomtesse de .... a great rendezvous of all persons devoted to the old regime; that he had there heard it asserted positively that the emperor could not stand his ground; that they had indulged in greater freedoms of speech than usual, calling the emperor, a soldier of fortune—a scrubby lieutenant of artillery—an adventurer ...."—"An adventurer!"—"Oui, aventurier! et bien pis—cruel language to hear for one who has the honour to be his chamberlain!"

It appeared that M. de Rinville had adjourned thence to the baron Gautier's, one of the new regime (for the marquis frequented the drawing-rooms of both sides, being as the vicomte de ——— said of him, de deux paroisses comme les pies), that nobody joked there—tous ces braves gens avaient l'air fort effrayé; one was trembling for his prefecture; another for his sénatorérie; a third for his receiver-generalship; the merchants were apprehensive of plunder; and the ladies dreaded the Cossacks.

'But would you believe it? Amidst the hum and noise of the conversation, I overheard a prefect of some department or other reflecting upon his majesty for obstinacy. Yes, monsieur le préfet said obstinacy. J'en ai frissonné. Giffard, Giffard, things are not going well. It is long since I have heard so much freedom of speech in a drawing-room of the new regime. 'Tis not what notre grande homme has been

used to. But what I have got to relate is more perplexing still. I think you will allow it quite enough to put a man, situated as I am, dans un grand embarras. You must know that it has been communicated to me in confidence .... and you will perceive the necessity of not letting this go any further .... well, then, it has been whispered to me under the strictest secresy, that in case of .... of a complete reverse, there may be a thought of .... a question about restoring .... yes, recalling, and then .... Certainly, I am strongly attached to the emperor, but before that I was: .... and, indeed, I am still, at heart, attached à d'augustes infortunés .... N'y a-t-il pas de quoi perdre la tête! Ah! il faut en convenir, notre grand homme a fait bien des témérités; cette guerre de Russie était d'une imprudence .... et d'une ambition .:.. gigantesque ....! Mais qu' est-ce que je dis? Pourquoi m' inquieter? Quoiqu'il arrive, ne suis-je pas sur mes pieds? Si Napoleón triomphe, je suis son chambellan; si, l'on rétablit l'ancien regime, je suis marquis Français."—"Fort bien," me dis-je "monsieur le marquis est tranquille; mais moi, je ne le suis pas."'

And Giffard, who had proposed vesting his little property in a paper about to be started, called *Le Courrier des armées*, hastens to break off the negotiation.

Meantime February had passed away, and March was near a close, wounded men and prisoners were daily brought in, and fresh bodies of infantry and cavalry were set out to join the army. Formerly, when troops left the city, the Parisians used to calculate that it would be weeks before they arrived in presence of the enemy; but now, a few hours, and "those brave fellows will be on the field of battle." Terror began to prevail, and the women to hide their effects. Giffard, at this time, was paying his addresses to a madame Belamy, the mistress of a café; a fanatical Bonapartist. The precautions taken by her female acquaintance moved her indignation greatly—it was so pusillanimous—so "injurieuse pour l'empereur."

'One day I was warmly pressing my suit, when my protestations were suddenly interrupted by the striking of a time-piece. I looked around—the sound seemed to come from the opposite wall; but there was no clock visible. Madame Belamy turned pale—then red. "Ah! grand Dieu!" she exclaimed, "I forgot it was wound up for a fortnight." The good lady, in ridiculing the pusillanimity of her friends, had not forgotten to purvey a hiding-place for herself. Judge what would have been the security of her valuables in their secret depository, with a time-piece regularly striking the hours, half-hours, and quarters! Madame Belamy made all haste to silence the tintinnabulary informant. "Diable!" thought I, "if the Bonapartists believe there is occasion to hide their effects, what ought I to do, who share neither their admiration nor their confidence."'

An apparition at length put an end to all Giffard's doubts as to what would be the result.

'One morning, in the first week of April, as I was lounging with a party of my camarades (he had enrolled himself in the National Guard, then newly re-embodied, to be again disbanded) before the guard-house, where we had passed the night, a Cossack mounted on a little horse, and carrying a long-lance, crossed at full gallop the little square where we were posted: he was the first we had seen. I cannot describe the sensation which the sight produced. Voilà donc un ennemi, un étranger, un vainqueur! The French are no longer masters in their own capital. .... On our return home to head-quarters, we saw a column of Russians defiling along the Boulevards. An unknown general, his hat adorned with a plume of cock's feathers, rode at its head. It seemed as though a new nation had succeeded to the one I had left. "Mon ami," said an acquaintance, taking me by the hand, "voilà notre plus beau jour depuis vingt cinq ans!"—"Mon ami," said another, pale with exasperation, "voilà le plus affreux des jours pour la France!"—"A shameful day!" sighed forth an old citizen, "but not more shameful than those, when we followed at the heels of a conquering soldier into Vienna, Berlin, Moscow, Madrid." "Vivent les Cossaques!" shouted an old woman from an upper window, her face covered with paint. Still not a word, not a sign, had discovered the secret wish of many hearts—when suddenly I beheld, in the midst of the crowd that thronged the boulevards, some white cockades. "Eh mais! grand Dieu! who is that man prancing up and down there among the allied troops, who wears the cockade which has not been seen here these five-and-twenty years? Me trompé-je? non, c'est bien lui! c'est M. de Rinville. Eh, what! but yesterday chamberlain to Marie Louise; he was for escorting her to Blois, and wanted me to accompany him; and to-day in the train of the allies, with a white cockade in his hat! C'est bien fort! c'est bien prompt! But numbers had been equally prompt. In a short time my eyes were absolutely dazzled with white cockades, and forthwith I hoisted a white cockade myself.'

On returning to the café of his Bonapartist mistress, he very prudently deposited the white cockade in his pocket. Vain precaution! a rival suitor had seen it in his hat, and denounced him to the lady. She was furious; but Giffard was so afflicted, seemed so ready to weep at the bare idea of being suspected, that his mistress began to melt; when, unhappily taking out his handkerchief to wipe his eyes, "la cocarde blanche tombe de ma poche."

The greatest day of all now came—the day of the king—of Louis le Gros, or le Désiré.

'An immense crowd of nobles of both régimes, and of general officers followed his carriage. They observed no order; their horses pressed one upon another; the whole troop wore the appearance of a mêlée, rather than of a procession. "See," said some among the spectators, "how eagerly they are rushing to dispute places and honours under the new government!—how they jostle one another to get nearest the royal carriage!" In this disorderly troop I recognized general Derigny, who

was spurring among the foremost. I recognized M. le Chambellan de Rinville, in the dashing uniform of an officer of the national horse-guard, his face radiant with joy. I recognized a number of other personages who had escorted Marie Louise to Blois, and who had returned in all haste to escort Louis XVIII. into Paris .... Eh! mais, ces grands officiers, ces sénateurs, are they to blame, for doing the best for themselves? But then, does not their conduct excuse mine? If men of the highest rank scruple not to act thus, why should we, nous autres gens du peuple, incommode ourselves with a conscience? For my part, toujours aux expédiens, I have been of every party in turn: I have cried, Vive le vainqueur. Have I reason to blush? I have studied only my own interests; but was I charged with the care of other men's interests? Je vous le demande, le perruquier Laurent Giffard est-il pire que beaucoup de sénateurs de Bonaparte?'

The line of defence taken by M. le Perruquier Giffard was adopted by his patron, M. le Marquis de Rinville. The latter wished to employ a writer of vaudevilles, to compose a "petite pièce de circonstance, quelque chose sur les évènemens du jour"—no matter what, provided it was good, and complimentary to the august allies.

'"And I may tell him," said I, "that he need not scruple saying as much ill as he likes of Bonaparte?"—"Certainly not, but tell him that, as from yourself. I should not like to have it said that I—I, you know, who have been chambellan de cet homme-là .... Although, between you and me, what could they say against *me* in particular? Was not Alexander his friend? Is not Francis his father-in-law? I am not treating him worse than these messieurs—their majesties, I should say.'

It was with no agreeable sensations, that some months after this, M. le Marquis de Rinville, high in place and honour under the Bourbons, saw his curtain drawn, and heard his valet announce, as the news of the morning, that "Bonaparte has landed at Cannes." Still less was the ci-devant chambellan at ease, when an imperial billet summoned him, in his capacity of chamberlain, to repair instantly to the palace, to do homage to his majesty the emperor and king.

'"But I flatter myself," said the marquis, "he will prove neither vindictive nor a persecutor. I have been advised to abscond, to hide myself; fi donc! After all, what have I done? I have nothing to fear, and .... I don't fear any thing. N'est-ce pas, monsieur Giffard, que je n'ai rien à craindre?" It was easy to see that the poor marquis was ill at ease, as he said this.'

Just then the imperial billet was handed in. At first he was disposed to look upon it as a joke they were playing him. But no .... there was the signature .... the protocol .... "me voilà convoqué." As for refusing to obey the mandate, it was not to be thought of a moment. "Je m'en souviens, avant son

départ, Napoléon ne badinait pas avec les gens de sa maison." His only course was, to repair instantly to court.

'"Allons, vite, Blondin, apportez-moi mon habit de chambellan."—"Votre habit?" dit Blondin.—"Oui, n'entendez-vous pas?"—"Eh! mais, monsieur le marquis ...."—"Eh bien! quoi?"—"Je ne l'ai plus." "Comment? vous n'avez plus mon habit!"—"Monsieur le Marquis ne se souvient-il pas qu'il y a un mois il a bien voulu me le donner?" —"Vous l'avez vendu! ah! malheureux, misérable valet!" ne vous desolez pas, monsieur le marquis: le fripier ne s'en est peut-être pas encore défait; il voudra bien me le prêter; il demeure à deux pas, je cours ...."—"Je vous chasse, si vous ne me rapportez mon habit.

'Blondin se fit un peu attendre. Le marquis s'impatientait, se désespérait. Enfin, voilà Blondin tout essouflé, mais triomphant: il a retrouvé l'habit. "Ah! tu es un garçon charmant," lui dit le marquis, en passant précipitemment l'habit nacarat .... Eh mais! est-ce que je suis engraissé, depuis que je n'ai mis cet habit? je le trouve étroit .... mon épée, mon chapeau .... Qu' est-ce que c'est? ôtez donc cette cocarde; vous voulez donc me perdre? J'espère, monsieur Giffard, que vous ne raconterez à personne ce petit incident.'

Changes equally abrupt, though perhaps not so amusing, were exhibited in other quarters.

'I never saw a sadder or more ominous day than the 19th March. The Carrousel, and the courts of the Tuileries were filled with a crowd à la fois consternée et furieuse. Woe to the man who failed to make manifest his hatred of the usurper: il était assailli, frappé .... oh! que le populace est féroce quand ses passions fermentent!'

The 20th March, at six in the morning, there was a total change. A crowd, as dense as that of the evening, filled the streets and promenades; but joy had taken place of gloom. They ran towards the Tuileries with cries and acclamations. Woe to the man who should have dared to utter a word in favour of the Bourbons. "Eh, grand Dieu!" said I internally, "are there then two canailles? What if the two exasperated mobs should meet? But no, there was but one; it was the same: I recognized among those who were now shouting *vive l'empereur*, hundreds who the evening before had vociferated *vive le roi* with equal pertinacity. The sign-painters were every where busily at work transforming *royal* into *imperial.* "Eh bien!" said one, "the two last letters are well off; they keep their places under all regimes; they were there even under the *national.*"

The language of the news-mongers, perhaps, exhibited the variation of sentiment in Parisian society at this epoch, most nicely. At first it was, "There is a report that the Corsican brigand has landed at Cannes." Some days after, it had got to, "Have you heard the news?—the fool-hardy usurper has

been received at Grenoble."—The form then became, "I have it from good authority, that general Bonaparte has entered Lyons." Then, "It appears certain that Napoléon is at Fontainebleau." Finally, on the 20th of March, "His majesty the emperor and king arrived this evening at the Tuileries."

Upon the second restoration of the Bourbons, the Memoirs of the Perruquier's Life and Times, fall off considerably in interest, and degenerate at last into an idle tale of love and intrigue. But the excellent author had exhausted all the regimes with which it was safe to meddle; and it must be owned that a reigning one is a difficult subject for a freely-speaking pen. "Faut-il donc attendre que nos ennemis soient à terre pour les frapper?"

Art. VIII.—*Two Years in New South Wales; a Series of Letters, comprising Sketches of the actual State of Society in that Colony; of its peculiar Advantages to Emigrants; of its Topography, Natural History, &c. &c.* By P. Cunningham, Surgeon, R. N. 1827. 2 vol. 12mo.

IF the child be the father of the man, then is the colony the mother of the full-grown and firmly-established state: it contains within itself, from the hour of its birth, the principles of its greatness or fall, and the accidents of its early years shape its course through the future. The traits of infancy are the indication of the settled character; and the anecdotes of a colony foreshow the measure and character of its capabilities: New South Wales, it must be confessed, is a very old-fashioned infant: it mixes up the weakness of infancy with the vices of age; the promise of youth, with the hard-featured and deeply-seated habits of advanced life. The very singularities of this nondescript colony, however, make it worthy of examination; for its constitution is one of the most instructive of moral experiments on a great scale. It presents us with a series of interesting trials of the new social birth: the strength and influence of circumstances on the character of man are there fully developed; not so much in their first effects of forming a character, as in their more difficult task of changing and new modelling one. We graft our iniquity upon a young and vigorous stock; the fruit is seen in the history of this state. The combination of natural advantages and commercial opportunities of a new country, with the industry, the enterprise, and the experience, of an old one, may be seen in operation: the record of its effects is to be found in Mr. Cunningham's

account of his residence of two years in the land of his adoption.

Mr. Cunningham's work is pregnant with information of a most instructive and amusing kind: for, though he cannot be said to waste his space upon producing mere subjects of entertainment, he luckily combines the talent of selecting facts of importance, and of communicating them in an agreeable manner. His opportunities have been considerable; a surgeon in the navy, he has made four voyages as superintendant of convict ships; he has resided two years, at occasional intervals, in the colony, and travelled over a considerable portion of it. Having himself formed the determination of settling in the country, it may be presumed that he let slip no opportunity of acquiring that information concerning its interest and character which would be likely to prove useful to him. Of Mr. Wentworth's work on the same colony we have already expressed our opinion * It is written with a strong party spirit, and, though it contains much information, that information is not turned to the best account. It certainly is not an agreeable work. Mr. Cunningham, on the contrary, is not mixed up with the parties of the new colony, which rage with a fierceness almost peculiar to colonies: he is, moreover, generally sensible and judicious, both in his remarks on society and in his advice to emigrants; but it is undoubtedly as an observer that he is to be chiefly valued. In this character we propose to follow his steps, and expect to gather from him an account of the more remarkable appearances, natural and social, of the country, which shall not be thought unworthy of a place in our pages.

Mr. Cunningham commences his work by describing the advantages of New South Wales to the emigrant, as contrasted with the American States and the Canadas. He coincides with the opinion which, on a balance of all circumstances, we have shown ourselves, in the article already referred to, disposed to favour; though he does not take into consideration a moral objection dwelt upon by us with only its due importance—the contamination of manners and habits likely to arise on the part of the emigrant's family from associating with the convict-servants of the settlement; and, in general, from the low state of morality necessarily prevailing in a convict colony.

In New South Wales a grant of land is procured with less difficulty and expense than in other countries to which the tide of emigration is flowing: the climate is fine, disease rare Obstacles at the outset are fewer; labour is cheap; its market

* No. VI. p. 264.

readier; its improvement more rapid. We are not disposed to contradict the assertions or to confute the reasoning of our author; though his statement is not made, neither could we expect to see it made, without an affectionate leaning to the country of his adoption.

Mr. Cunningham next proceeds to settling the time at which an emigrant should leave England. After coming to the conclusion that he should sail in August, in order to get his wheat in before the end of May in the next year, he describes the coast of New Holland, with which he will fall in in his course, and enters into a general view of the geography of the great island continent. The town of Sydney, of course, comes in for a very particular description; and the first impressions of the voyager are hit off pleasantly.

Sydney is a cheerful looking place; the houses are of white freestone, and built in the cottage style, detached from each other, and surrounded with neat wooden paling or trim geranium hedges, a garden teeming with flowers and vegetables is generally found to adjoin it. The streets are wide, but neither paved nor lighted; but the general dryness of the climate, and the durable composition of the ground, render paving unnecessary. The town runs in one direction, which may be called its length, a mile and a half: its breadth is one fifth of that distance. There are two parish churches, and three dissenting chapels. The number of distilleries equals that of the parish churches; the other public institutions appear fully to correspond with the size of the town. The Australian and Sydney hotels, as well as Hill's tavern, close by Hyde Park, afford all the accommodations which are to be procured in similar establishments in this country. Inferior taverns and tippling shops are plentifully scattered in every inhabited quarter of the town. In public amusements this capital is very deficient, and it is to be regretted, as it might draw the idler inhabitants from too close a consideration of each other's defects. A theatre is a grand desideratum; but neither free settlers, nor yet emancipists have been able to get up a company of players. Men so accustomed to the tricks of life and the practice of deception, such as many of the convicts, would surely not require much training: James Hardy Vaux, who, in his most amusing memoirs, shows himself so familiar with Shakspeare, would make a good manager, provided he be not trusted with the disposal of the funds.

The arbitrariness of fashion was never more clearly shown than at Sydney: the China and India manufactures which here are so highly prized, there possess no charms. London must

account of his residence of two years in the land of his adoption.

Mr. Cunningham's work is pregnant with information of a most instructive and amusing kind: for, though he cannot be said to waste his space upon producing mere subjects of entertainment, he luckily combines the talent of selecting facts of importance, and of communicating them in an agreeable manner. His opportunities have been considerable; a surgeon in the navy, he has made four voyages as superintendant of convict ships; he has resided two years, at occasional intervals, in the colony, and travelled over a considerable portion of it. Having himself formed the determination of settling in the country, it may be presumed that he let slip no opportunity of acquiring that information concerning its interest and character which would be likely to prove useful to him. Of Mr. Wentworth's work on the same colony we have already expressed our opinion * It is written with a strong party spirit, and, though it contains much information, that information is not turned to the best account. It certainly is not an agreeable work. Mr. Cunningham, on the contrary, is not mixed up with the parties of the new colony, which rage with a fierceness almost peculiar to colonies: he is, moreover, generally sensible and judicious, both in his remarks on society and in his advice to emigrants; but it is undoubtedly as an observer that he is to be chiefly valued. In this character we propose to follow his steps, and expect to gather from him an account of the more remarkable appearances, natural and social, of the country, which shall not be thought unworthy of a place in our pages.

Mr. Cunningham commences his work by describing the advantages of New South Wales to the emigrant, as contrasted with the American States and the Canadas. He coincides with the opinion which, on a balance of all circumstances, we have shown ourselves, in the article already referred to, disposed to favour; though he does not take into consideration a moral objection dwelt upon by us with only its due importance—the contamination of manners and habits likely to arise on the part of the emigrant's family from associating with the convict-servants of the settlement; and, in general, from the low state of morality necessarily prevailing in a convict colony.

In New South Wales a grant of land is procured with less difficulty and expense than in other countries to which the tide of emigration is flowing: the climate is fine, disease rare Obstacles at the outset are fewer; labour is cheap; its market

* No. VI. p. 264.

readier; its improvement more rapid. We are not disposed to contradict the assertions or to confute the reasoning of our author; though his statement is not made, neither could we expect to see it made, without an affectionate leaning to the country of his adoption.

Mr. Cunningham next proceeds to settling the time at which an emigrant should leave England. After coming to the conclusion that he should sail in August, in order to get his wheat in before the end of May in the next year, he describes the coast of New Holland, with which he will fall in in his course, and enters into a general view of the geography of the great island continent. The town of Sydney, of course, comes in for a very particular description; and the first impressions of the voyager are hit off pleasantly.

Sydney is a cheerful looking place; the houses are of white freestone, and built in the cottage style, detached from each other, and surrounded with neat wooden paling or trim geranium hedges, a garden teeming with flowers and vegetables is generally found to adjoin it. The streets are wide, but neither paved nor lighted; but the general dryness of the climate, and the durable composition of the ground, render paving unnecessary. The town runs in one direction, which may be called its length, a mile and a half: its breadth is one fifth of that distance. There are two parish churches, and three dissenting chapels. The number of distilleries equals that of the parish churches; the other public institutions appear fully to correspond with the size of the town. The Australian and Sydney hotels, as well as Hill's tavern, close by Hyde Park, afford all the accommodations which are to be procured in similar establishments in this country. Inferior taverns and tippling shops are plentifully scattered in every inhabited quarter of the town. In public amusements this capital is very deficient, and it is to be regretted, as it might draw the idler inhabitants from too close a consideration of each other's defects. A theatre is a grand desideratum; but neither free settlers, nor yet emancipists have been able to get up a company of players. Men so accustomed to the tricks of life and the practice of deception, such as many of the convicts, would surely not require much training: James Hardy Vaux, who, in his most amusing memoirs, shows himself so familiar with Shakspeare, would make a good manager, provided he be not trusted with the disposal of the funds.

The arbitrariness of fashion was never more clearly shown than at Sydney: the China and India manufactures which here are so highly prized, there possess no charms. London must

shake and worry their victim as eagerly as a pack of hungry beagles would a helpless hare.'

The neighbourhood of Sydney affords picturesque views. Abrupt shores are described as remarkably diversified with huge masses of rock, and jutting out into shelving cliffs, which afford the most agreeable retreats from the rays of the noon-day sun. Such are the beauties of the road which immortalize the name of Mrs. Macquarie. On Sunday, Sydney displays a variety of carriages and horses of every description, which serves to prove the wealth of the inhabitants. It may be worth notice as an indication of the manners of our Australasian brethren, that abundance of gigs may be hired in Sydney at fifteen shillings a day, and riding horses at ten. A four-horse stage coach runs twice a day, and a caravan once, between Sydney and Paramatta (a distance of fifteen miles), and another coach thrice a week to Liverpool (twenty-one miles), while a third proceeds from Paramatta to Windsor (twenty-three miles), three times a week also: these are proofs of a facility of communication, which, trifling as they are in themselves afford no slight indications of the flourishing state of the colony. In speaking of them, Mr. Cunningham might be supposed to refer to the stages of Blackheath or Richmond. Paramatta! Paramatta! is now the cry of him who erst perhaps exhausted his leathern lungs with proclaiming City! City!

The healthiness of the climate of New South Wales is extreme: Mr. Cunningham's testimony on this head being that of a scientific and acute observer, comes with authority: intermittents, remittents, typhus, scarlet fever, small-pox, hooping-cough, and cramp, are unknown. Dysentery is the most prevalent disorder, yet deaths from this cause are rare among individuals of sober habits. An ophthalmia likewise seems consequent upon a particular wind, and is a disagreeable and inconvenient malady, which, however, appears readily to yield to simple remedies. On reaching the age of puberty, phthisis is liable to supervene, from the rapid increase of stature usual in Australasian youth at this period; but it is found that European phthisis is uniformly cured, or at least relieved, by a removal thither, if resorted to in an early stage of the disorder. This is a result owing probably to the great dryness of the climate.

It is, as Mr. Cunningham justly observes, this dryness of the atmosphere which renders the heat much less oppressive at equal degrees of temperature than in England. His remarks on this subject contain much information, and the subject, in reference to many considerations, is so important, that we shall transfer them.

'Even in our hot dry winds, with the thermometer at a hundred, the temperature has not been to me so intolerable as that of many summer-days I have experienced in England, with the thermometer from twenty to thirty degrees lower. A certain portion of vapour is necessary in the atmosphere to render it agreeable to animal respiration, but we can bear this amount of vapour to be *diminished* with less unpleasantness to our feelings than we can to have it *increased.* It matters not whether the temperature be high or low, if the vapour exceeds a certain ratio—the respiration is still oppressed by it; though the evil is greater, as a matter of course, in high than low temperatures. In the cold thick November fogs, our respiration feels certainly clogged and oppressed, but much more so in the hot days in summer, when the air is overcharged with moisture. People have been known to seat themselves in an oven with a leg of mutton roasting alongside of them; but had a tea-cup of water been thrown into the oven, they would soon have made a speedy retreat. The Americans are in the habit of placing a tin of water upon the top of their stoves, to counteract the arid feel of the air from the drying effects of the stove; but were this vapour increased beyond a proper *ratio,* the cure would be more insufferable than the disease. The thermometer, therefore, is no just criterion in itself of the relative disagreeableness of climates with respect to temperature—we must take the rate of the hygrometer along with it.'

* * * * * * * *

'The barometer, though indicating the true weight of the general atmospheric column, gives us no indication as to its density; and, in fact, it will mostly be found, that the lighter the atmospheric column is, the denser the lower stratum of the atmosphere is also.—The atmospheric air can only retain a certain portion of vapour in solution, as water can only retain a certain portion of salt in solution, heat increasing the solvent properties of both air and water, and cold, of course, diminishing them; therefore when the temperature of the atmospheric column is diminished, or a part of its pure air is subtracted from it, a portion of the vapours held in solution will naturally descend, and either increase the density of the lower atmospheric strata, or fall to the ground in shape of dew or rain.'

* * * * * * *

'Cold moist air chills our bodies more than dry air at the same temperature, because the former carries off the heat generated by our bodies quicker, it being a more powerful conductor; and hence, in passing out of the dry air of the hills down among the vapours in the valleys, in a winter's morning, we experience a sensation as if stepping out of the temperate into the frozen regions—although the thermometer indicates but a few degrees difference. In building a dwelling, therefore, it is a good rule to choose a moderately-elevated hill for its site, where you will not only experience less of the winter's cold, but be less annoyed by the summer's heat.'

In a table kept at Sydney by major Goulburn, from May 1821, to April 1822, the thermometer never rose above 75½°, and never lower than 54° of Fahrenheit.

The forest-trees of Australia are, with few exceptions, ever-

greens: the bark of many is deciduous: the wood is generally hard. Gums are exuded in considerable quantities. The apple-tree resembles the English apple-tree only in leaf. The forest and swamp oak bears but a slight affinity to the English oak. The name of the nettle-tree explains its peculiarity. The tea-tree, in the early period of the colony, served as a substitute for the genuine plant, and containing some saccharine matter, required no sugar. Australia possesses about one hundred and thirty species of acacia, and from these exudes the purest gum arabic in great quantities. A species of eucalyptus likewise produces manna in considerable abundance: it is found in flakes upon the grass, and also adhering to the branches and trunks; several pounds may be often gathered in a very short space of time. Manna is one of the safest and almost the only pleasant purgative we possess, and has only been prevented from coming into general use by its high price, which the supply from New South Wales will probably diminish. The cedar is plentiful, and resembles the Honduras mahogany. The trees curryjong, kalang, or sassafras, and the boula retain their native appellations. The deciduous barks of several trees are used for various purposes, such as roofing cattle-sheds, and in making ropes. It is a remarkable circumstance observed in America, as well as Australia, that on the forests being cut down, young trees of a different species spring up. The chemistry of plants is probably destined to unfold some curious facts. It would seem that each species of plant derives a peculiar nourishment from the earth, and that though it may contain an abundant supply of sustenance for one description of vegetation, it may be thoroughly barren of the necessary supplies for another. Mr. Cunningham supposes, in explanation of the fact already mentioned, that the ancient forest having exhausted the particular substance from the earth from which it derived its nourishment, restoration is only to be effected by such chemical changes in the constituent particles of the soil as may arise from the cultivation of other species. This theory, however, would only be satisfactory had the original trees died from want of sustenance, and not been felled for want of fuel. Mr. Cunningham refers to Mr. Sinclair's valuable observations on grasses. Upon a spot of land where a renewal of the same grass of one particular species cannot be effected, various others may be raised; so that though the sward might be thin were only two or three species cultivated, the interstitious spaces would be filled up by adding to the varieties. Thus Mr. Sinclair detected in a square foot of old English pasture, no less than twenty-two varieties of grasses.

The native grasses of Australia are nutritious, but thin, and grow in tufts. The closeness of the richest Australian swards is calculated to be inferior to the old pastures of England by two thirds, but then it must be remembered, that in this essential point, our pastures excel those of any other country.

Australia is not rich in native fruits; but the climate agrees with the productions of almost every country; so that the colonists have succeeded in naturalizing almost every known fruit, whether of the tropics, or the more temperate quarters of the globe. Grapes flourish luxuriantly, but are subject to a blight: many zealous colonists aspire to filling their cellars with pipes of native wine. One gentleman alone is recorded to have stored no less than six and a half pipes of native wine from the last vintage. Melons and pumpkins seem, however, to enjoy the climate beyond any other of the exotic productions:—

'Melons and pumpkins will absolutely over-run you if you do not give them most bounteous scope, and you need want neither water nor musk melons for six or eight months yearly on an average, if you duly time the sowings. Nothing can exceed their rich juiciness and flavour, and the rapidity of their growth is almost miraculous, when a few showers of rain temper the hot days. The pumpkin makes an excellent substitute for the apple in a pie, when soured and sweetened to a proper temper by lemons and sugar. The black children absolutely dance and scream when they see one—pumpkin and sugar being their delight. To the half of a shrivelled pumpkin hanging at the door of my tent on my first essay in settling, one of our sooty satyrs could do nothing for some minutes but fidget and skip; and with his eyes sparkling, and countenance beaming in ecstacy, exclaim, "Dam my eye, *pambucan*, dam my eye, *pambucan!*" such being the nearest point they can attain to the right pronunciation of their favourite *fruit.*'

The prevailing soil of New South Wales is clayey, and consequently well suited, under proper management, to a dry and warm climate. The wholesome effects of deep ploughing and thorough pulverization are developed by Mr. Cunningham with much acuteness. The more dense a substance is, the more rapidly it conducts heat and moisture; now to retain these important elements of vegetation, it is necessary to carry on a thorough process of pulverization. A well pulverized soil, while it retains its warmth, receives more amply than other soils the supply both of dew and rain.

In consequence of the thinness of the wood in New South Wales, the pastoral system is chiefly followed: in America, where, before the land could be made available, every inch had of necessity to be cleared of timber, the farmer was driven to

expect his return from the cultivation of the soil. In America grants were of course comparatively small; in Australia they are large. Sheep are bred to an immense extent; and from the peculiar adaptation of the climate and soil to the production of fine wool, it is become the staple commodity of the colony. In 1813, it is said, the number of sheep in the colony amounted to 6,514; in 1821, to 119,777. The exportation of wool to England during the last year exceeded a million of pounds, and at the same rate of increase, in 1840, will reach to between thirty and forty millions of pounds.

The horned cattle of the colony amounted in 1813, to 21,513, and in 1821, to 68,149. The breeds are a mixture of the Bengal buffalo variety, with the different English breeds that have been imported. The bulls, cows, calves, and bullocks, run all promiscuously together in large herds: they chiefly pasture, as well as the most extensive flocks of sheep, in the new districts of Bathurst, Argyle, and Hunter's River, on ungranted lands, some at a distance of two hundred and fifty miles from Sydney. The calves naturally become as wild, and almost as fleet, as deer: they are hunted, as in South America, into the stock-yard by bands of horsemen, like the gauchos of the Pampas, and thence picked out as required. A stock-yard under six yards in height, will be leaped by some of those kangaroos, as they are called, with perfect ease. Bullocks are recommended by Mr. Cunningham for draught, in preference to horses: we are not sure that he would not saddle and use them for riding, as is the mode in parts of Southern Africa: he certainly considers the speed of a well-taught, lively, strong, bullock little short of that of the horse. In the feeding of pigs, Mr. Cunningham has certainly made a discovery which, in the coal countries, will be properly estimated:—

'It is a common saying among the Scotch housewives, that for every pound of salt you give a fatting pig, you have in return a pound of pork; and the herring salt is bought up in Scotland for this very purpose. The high price of salt here, however, prevents it either being applied as a manure or as a means of fattening or improving the health of stock. I observed once, on a farm a few miles from Sydney, where a large quantity of sea-ware had been collected for manure, that a herd of pigs which chanced to approach, rushed forward instinctively as it were among it, and devoured it in a most ravenous manner. The proprietor declared they had never tasted this ware before, and instinct therefore could alone have led them to it. Settlers living near places where these sea plants abound, might thus avail themselves usefully thereof. I had often heard it said among sailors, that pigs would fatten on coals, and although I had observed them very fond of munching up the coals and cinders that came in their way, still I conceived they might relish them more as a condi-

ment or medicine than as food, till I was assured by a worthy friend of mine long in command of a ship, that he once knew of a pig being lost for several weeks in a vessel he commanded, and it was at last found to have tumbled into the coal-hole, and there lived all that period without a single morsel of any thing to feed upon but coals: on being dragged out, it was found as plump and fat as if it had been feasting on the most nutritious food. Another friend told me of a similar case, which came under his observation; and although these may be solitary instances, yet they serve at least to show the wonderful facility which the stomachs of certain animals possess of adapting their digestive powers to such an extraordinary species of food, and extracting wholesome nourishment therefrom. When we consider coal, however, to be a vegetable production, containing the constituent principles of fat, carbon, hydrogen, and oxygen, our surprise will decrease.'

The wild animals of New South Wales are numerous, but very few are carnivorous, and none of a formidable size. The *native dog*, as it is called, is generally believed to be an importation: he is the object of pursuit, and serves the "Bathurst Hunt" for a fox: he is destructive to the sheep, and in company with others, will hunt and kill a tame dog. He somewhat resembles a shepherd's dog in appearance. This animal, and the hydromys, are the only quadrupeds of New Holland destitute of the pouch. The *marsupiate* family of animals may be accounted among the most singular varieties of nature. The manner in which the offspring are transferred from the womb to the pouch has never yet been settled by naturalists, although the inquiry has been pursued with great eagerness, and Mr. Cunningham appears not to have had an opportunity of throwing light on the subject. It is ascertained that the young are born prematurely and become attached to the mammæ of the mother in a very early state of development; that the pouch in which they pass their first stage of external existence is supported by two bones, called marsupial bones, which occur in no other class of animals: further than this, however, the facts rest in obscurity. Mr. Cunningham describes the native cat as the only other carnivorous quadruped of New South Wales: the opossum has, however, the same claim to be so considered. The animal which he calls the *native cat* is the spotted dasyurus, sometimes called the spotted marten, which it resembles much more than the cat, from which it is indeed wholly dissimilar, except in size. The dasyurus is an animal peculiar to New Holland and Van Dieman's Land: the females have the marsupial pouch; it has a long tail, conical head, with five claws on the fore feet, with crooked nails, and four on those behind unguicunated. The dog-faced dasyurus is the size of a wolf. The ursine dasyurus is the *Devil* of the colonist—it is black. There is also the viverrine dasyurus,

the tapoa tafa, or spotted opossum, besides other varieties. They feed on poultry, birds, fish, insects, and under the protection of darkness sally forth in search of ornithorynci, Echidnæ, and though destitute of the prehensil tail of the opossum, climbs trees, and seizes birds while they sleep. A variety of opossums, with their ring-tails, inhabit the woods, together with the flying squirrels, bandicoots, an animal about four times the size of a rat, living in burrows and hollow trees,* and kangaroo rats.

The coola, or native bear, described by Mr. Cunningham, is an animal peculiar to New Holland. It is about the size of a small poodle dog, with shaggy, dirty-coloured fur, no tail, and claws, and feet like a bear, of which it is a tolerable miniature. It carries its young a long time on the back, in the manner represented in one of the plates to Griffith's edition of Cuvier's Animal Kingdom.

The wombat, which, like the coola when dressed forms a dish highly-prized by the natives, is a species as yet isolated in nature. Its relations with other mammalia are so remote, that naturalists know not to what order it should be referred. It is described by Mr. Cunningham as being about the size of a mastiff, burrowing in the ground, feeding on grass and roots, and attaining considerable fatness. Two males of this species were brought to Europe by captain Baudin. From the description given of these individuals, they would appear to be the most apathetic animal in existence; blows can neither excite anger nor fear; when they are taken up, they offer no resistance, and when set down, they move on with great slowness, as though nothing had happened.

But of all the animals of New Holland, the most celebrated, and the most marked species is the kangaroo. Of the general habits of this quadruped, and of the mode of hunting it, Mr. Cunningham gives a pleasant account :—

'Our largest animals are the *kangaroos*, all of which are fine eating, being clear of fat except about the tail, tasting much like venison, and making most delicious stews and steaks, the favourite dish being what is called a *steamer*, composed of steaks and chopped tail, with a few slices of salt pork, stewed with a very small quantity of water for a couple of hours in a close vessel. We have the *forest kangaroo*, of a grey colour, with longish fur, inhabiting the forests; the *wallaroo*, of

* In a very curious, and indeed valuable, account of New South Wales, written by an illiterate convict, and inserted in the London Magazine, No. 5, New Series, will be found among many other curious particulars, an account of the native bandicoot hunting. We would refer our readers to the whole of this singular production for many curious particulars relating to the colony.

a blackish colour, with coarse shaggy fur, inhabiting the hills; and the *red kangaroo*, with smooth short close fur, of a reddish colour, resembling considerably in fineness and texture the fur of the sea otter, inhabiting the open forests; and all of these varieties attain the weight of two hundred pounds and upwards, when full grown. The *wallabee* and *paddymalla* grow to about sixty pounds each, and inhabit the brushes and broken hilly country. The *rock kangaroo* is very small, living among the rockiest portions of the mountains; while the *kangaroo rat*, or more properly *rabbit*, is about the size of the smallest of the latter kind of animal, and lodges in hollow trees, hopping along like the other kangaroos, with great speed, and affording good sport in the chase.

'The kangaroos make no use of their short fore legs, except in grazing, when they rise upon them and their tail, bring their hind legs forward, and go nibbling upon all fours, pulling up occasionally some favourite plant with their fore paw, and sitting up bold and erect upon their hind houghs and tail, while they slowly bite and nibble it, shifting it from paw to paw like a boy protracting his repast on a juicy apple. When chased, they hop upon their hind legs, bounding onwards at a most amazing rate, the tail wagging up and down as they leap, and serving them for a balance. They will bound over gullies, and down declivities, the distance of thirty yards, and fly right over the tops of low brush wood, so that in such places dogs stand very little chance with them, but, in a clear, open country, soon tire them out. The dogs seize them generally by the hip, and throw them over; then fasten upon their throats, and finish them. But few dogs will attack a large kangaroo singly, some of the two hundred weight size often hopping off with three or four assailants hanging about them; and I was informed of one that actually carried a man to some distance. When a dog gets up close to a large kangaroo, it will often sit up on its tail and haunches, and fight the dog, turning adroitly round and round (so as always to face him), and pushing him off with the fore-paws: or it will seize and hug him like a bear, ripping him up with the long sharp claw on its powerful hind leg. They are constantly, indeed, cutting and often killing dogs with this terrible weapon, which will tear out the bowels at a single kick; and a large kangaroo is on this account very dangerous even for a man to approach, when set at bay. The kangaroo hunters immediately hamstring them when thrown, to prevent injury to themselves or the dogs; while the black natives give them a heavy blow over the loins with their *waddie*, which completely paralyzes their hind legs, as all the large nerves supplying these parts pass out there.

'The kangaroo has only one young at a time, which you may see attached by the mouth to the nipple inside the mother's pouch from the period it is the size of your thumb-top, and as bare and unshapely as a new-born mouse, until it attains the size of a poodle-dog, with a fine glossy coat of hair, ready to leap out and hop along after the mother. The young are attached by the mouth to the nipple in somewhat the same way as the placenta of other animals is attached to the uterus, the mouth being contracted round the nipple, which swells out like a cherry inside it, nourishing the fœtus by means of absorption

through this indirect channel, the mouth and nipple adhering so strongly, that it requires considerable force to separate them. When the fœtus arrives at sufficient age to suck, it drops off the nipple, and may then be said to be *born*, yet still continuing inside of the pouch, and sucking milk now through the ducts of that same nipple, from the external surface of which it formerly derived a very different species of nourishment. The manner in which the young reach this pouch from the ovary, and attach themselves to the nipple, is still I believe a mystery, as no communicating duct has yet been found; but the natives assert they are born in the usual way, and that the mother places them there. It is amusing to see the young kangaroo pop its head out of the pouch, when the mother is grazing, and nibble too at the tender herbage which she is passing over. When hard hunted, the mother will stop suddenly, thrust her fore-paws into her pouch, drag out the young one, and throw it away, that she may hop lighter along. They are always *very* hard pressed, however, before they thus sacrifice the life of their offspring to save their own; and it is pitiful to see the tender sympathetic looks they will sometimes cast back at the poor little helpless creature they have been forced to desert.—From this singular mode of gestation, you may handle the *fœtus in utero*, and pull it about by the tail, like a kitten, from the first moment of its appearance there, up to the very day of its birth, without causing either pain or annoyance to it or its mother. Such is the very singular manner in which nearly *all* our Australian quadrupeds are generated and brought forth. When the young kangaroo has attained a considerable size, it will crawl out, feed about, and creep in again to warm itself, or in case any danger approaches.—The kangaroos feed early in the morning when the dew is on the grass, which is the best time to hunt them.

'If there is no dog in your pack that will show the game, you must keep sight of the dogs at full gallop to secure it, or else take out a little short-legged terrier, that will run the foot, and that you can readily keep sight of till it reaches the others, otherwise you may lose all your sport, as few of our dogs give tongue either in the chase or at the death. If there is a river or pond near, the kangaroos are sure to retreat thither when hard pressed, and in this way readily baffle the native dogs, by shoving under water, and drowning such as may venture in beside them. From the great length of their hind legs and tail, they are enabled to stand on the firm bottom while the dogs are obliged to swim, and in this way a fight between a large kangaroo and a pack of dogs affords a most amusing spectacle. The kangaroo stands gravely upright with his fore-paws spread out before him, wheeling round and round, to ward off his assailants, and whenever one arrives within reach, he pounces his paws upon him, and sousing him suddenly under, holds him fast in this position, gazing all the while around with the most solemn simpleton sort of aspect, heedless of the kicking and sprawling of his victim, whom he quickly puts an end to, if some courageous colleague does not in good time advance to aid, and force the kangaroo to let his half-drowned antagonist bob above water again, who paddles forthwith toward shore, shaking his ears and looking most piteously,

with no inclination to venture in a second time, notwithstanding all the halloos and cheerings with which you urge him.'—Vol. i. pp. 309—315.

The *flying fox*, which Mr. Cunningham terms an immense bat, is not a bat at all; it is a Flying Phalanger, whose peculiarity is, that the skin of the sides is extended in such a manner as to unite the anterior and posterior extremities, and form a kind of parachute. The individual mentioned as being taken, by one of Cook's sailors, for the devil, was the Great Flying Phalanger. The entire length of the body is about one foot, eight inches, and the tail only short of that length by two inches.

In the ornithological branch of animals, the emu is the most remarkable specimen. These birds often stand nearly as high as a man; they have neither feathers nor wings, but are covered with something between hair and feathers, and possess two small flaps as a sort of apology for wings. They run with extraordinary rapidity, and are coursed by dogs in the same way as the kangaroos. Their kick is powerful, and at a single blow, they frequently kill or disable their canine pursuers.

The *ornithoryncus* is a proverbial puzzle to the naturalists: this is Mr. Cunningham's description of it:—

'I cannot omit to notice likewise the *ornithoryncus*, that remarkable animal which forms the link between the bird and beast, having a bill like a duck, and paws webbed similar to that bird, but legs and body like those of a quadruped, covered with thick coarse hair, with a broad tail, to steer by. It abounds in our rivers, and may be seen bobbing to the top every now and then, to breathe, like a seal, then diving again in quest of its prey. It is believed to lay eggs, as a nest with eggs in it of a peculiar appearance was some time ago found. It bears a claw on the inside of its foot, having a tube therein, through which it emits a poisonous fluid into the wounds which the claw inflicts; as, when assailed, it strikes its paws together, and fastens upon its enemy like a crab.'—Vol. i. p. 325.

The seas of New South Wales are abundantly supplied with fish of almost every description; a vast variety also teems in the rivers. Fishing with the rod is not the precarious occupation which it is in England. The *guanas* are numerous in this country, but seldom exceed four feet long: serpents are very common, and extremely poisonous. Mr. Cunningham gives an account of a brown one that he killed with a spade, and which, after its head had been severed from the body, bit a colonial dog, of which the animal died within half an hour. Another dog that had been engaged with a similar snake at the same time, after having killed it, ran off on the scent of an emu, but was found dead in a neighbouring field. There is a man in the colony, who possesses the secret of divesting these

malignant serpents of their inclination to bite: he states his method to be simply that of confining many of them in a bag together, and that he learned it from the surgeon of De Freycinet's ship.

The blow-flies are a principal pest of the colony; animal food is infested by them as soon as killed, and the very meat as it roasts on the spit is impregnated: they even blow the milk in which they are drowned, and fill the very blankets of the beds with maggots. The settlers have a mode of expeditiously clearing their blankets and clothes of fleas, which are a great nuisance in this warm climate, by simply spreading them out beside an ant-hill, the in-dwellers of which quickly nip up and carry off the intruders as delicious prey. The wood-grub is a long, soft, thick, worm, much relished by the natives, who have a wonderful tact in knowing what part of the tree to dig into for it, whence they quickly pull it, and, says Mr. Cunningham, gobble it up, with as much relish as an English epicure does an oyster. Mr. Cunningham's account of the ravages of the caterpillar is worth extracting:—

'It is puzzling how they should appear simultaneously and in such numbers upon isolated spots. They do not spread widely over the field, but proceed in a compact line, often several inches wide and deep, huddling over each other like a hive of bees. This line is stretched irregularly across the field, the progress of their ravages being seen waving in and out, upon the edge of the unscathed portion, like the irregular ravages of a fire. Not a green blade is to be seen behind them, except those of the solitary herbs, rib-grass, and the like, which they avoid, the field being bedded with their fetid excrement, and forming a dismal, desert-looking contrast to the flourishing pasture in advance of them. The commencement of spring is the period of their visit, and although they send but few pioneers before, yet behind there are generally stragglers. In crossing a stream, they proceed to some point of land projecting into it above where there is a bend, and dropping into the water, are floated to the opposite side, at some distance below. So close and so massive is often their advancing line, that you may tread several hundreds to death by a single stamp of your foot.'—Vol. i. p. 349.

Of the mineral productions of New South Wales, the most valuable is coal. The supply is inexhaustible, and must ultimately be found a vast source of wealth. Freestone is likewise to be had every where. Limestone has not been discovered in any quantity nearer than ninety miles from Bathurst. Little, of course, has been ascertained of the more hidden contents of the earth; but there is some reason to hope that it contains nothing which will draw the inhabitants from the regular and profitable occupations of agriculture and commerce, to seek the uncertain gains of the miner.

The aborigines form a good subject for a pen so graphic, and at the same time so given to jocose narration, as that of Mr. Cunningham. While his account is more amusing than that of others, it is more favourable. He speaks of the disgraceful state into which the neighbourhood of the whites has thrown the natives about Sydney; of their importunate beggary, their power of mimickry, and their accomplishment in the language of Billingsgate; but he mentions instances of their being reclaimed, and of the regular employment of many of them as constables, in pursuance of governor Darling's regulations for tracking thieves and bush-rangers. They possess amazing quickness of eye and ear, and can trace a man's footsteps with perfect ease through every description of country, provided it is sufficiently recent, and that no rain has fallen in the interim; and they can guess very correctly *how long* it is since the individual has passed, and ascertain whether it is the bare footsteps of a white, or a black man, by the character of the impression. Mr. Cunningham knows an instance where the tracker pronounced the robber to be knock-kneed, and his surmise turned out to be just. Certain natives, called by the elegant appellations of *Johnny M'Gill* and *Jemmy Jackass*, from the Newcastle settlement, are remarkable instances of application: these men cleared ten acres of heavily-wooded land for the missionary at Reid's Mistake as well and as quickly as could have been done by white labourers. These two men, and another, *Bob Barret*, accompanied captain Allman to Port Macquarie, to form a penal station, and it is highly creditable to their race, that they proved of eminent service to him in responsible situations requiring sagacity, fidelity, and activity.

The great pride of the natives is, to be *named* by a European, and the above specimens may serve to show the taste of their godfathers: the next subject of desire is, to have their heads cropped by a white. Mr. Cunningham having condescended to perform this office for several individuals, the moment he appeared in the woods where he met with them, they immediately saluted him with many demonstrations of joy, particularly patting their heads, and pointing to their hair, as the bond of obligation between the parties.

The society of New South Wales naturally combines several discordant elements. One of the first distinctions is between the individuals born in the "old country," and their descendants born in the new: the latter enjoy the name of "*currency* population;" the former that of *sterling*. "Currency lads," and "currency lasses" are become common, and not unacceptable, appellations. They differ materially from their ancestors

in figure and appearance, but appear, on the whole, to be a fine race. The "currency lad" is tall, pale, and slender, and generally remarkable for his fair hair and blue eyes. The favourite occupation with him is a trading or seafaring life. The employment of the convicts as agriculturists has naturally made that species of labour unpopular. The "currency lasses" are a modest, simple, and mild race, not by any means destitute of charms. The "currency lads" are remarkable for their spirit, their clownishness, and their patriotism. A further division, which gives rise to much bitterness, is that between the free settler and the emancipist, as he is called. These classes are otherwise known by the *legitimates* and the *illegitimates;* the former are those who have had *legal* reasons for visiting the colony; the latter are free from that stigma. The convicts (a word unknown in the colony) are termed familiarly, *canaries,* on their first arrival; when fairly domiciliated, *government-men.* Those who have been pardoned, or have completed their term of servitude, are called emancipists. Many very respectable individuals, and more very wealthy ones are to be found in this class. It is said of men convicted of crime, by the author of the *Panopticon,* that they are often like those on whom the Tower of Siloam fell, rather distinguished for their suffering than their guilt. It would be unjust and unwise if no future meritorious conduct were allowed to wipe out the disgrace of a conviction: no two men are more different than the same individual under wholly-changed circumstances, and at a different period of life. If the colony be a scheme of reformation, it is to shut out all motive to amend, if the bar to a re-admission is irremovable and impassable, either by the unhappy person himself, or his children. It must be allowed that this is the light in which the authorities have almost invariably viewed the situation of the emancipists, and the principal difficulty has not arisen with them, but from the prejudices of the free emigrants. Wealth, the universal leveller, is, however, smoothing the road for the return of the emancipists into society, and practically they perhaps already enjoy all the real advantages of their situation. Some exclusions, however, exist, which, though trifling in themselves, are the cause of severe heart-burnings, and of much angry discussion. The party who would most strictly put in force the social regulations against the emancipists, are termed *exclusionists.* These distinctions create much sensitiveness on the subject of artificial rank, and give birth to much formal attention to etiquette, the minutiæ of which are studied with a more ridiculous zeal than even in London. The operation of this cause may be found even in such minute circumstances as are recorded in the following anecdotes:—

'The pride and dignified *hauteur* of some of our *ultra* aristocracy far eclipse those of the nobility in England. An excellent Yorkshire friend of mine, in command of a merchant-ship, unaware of the distance and punctilio observed here, very innocently stepped up to one of our "eminent lawyers" (to whom he had been casually introduced but a few days previous), to ask some trifling question, which he prefaced with "Good morning, Mr. ——." The man of the law, however, recoiled as if a toad had tumbled in his path, and ejaculated, with a stern frown, "Upon my life, I don't know you, sir." This proved a subject of much merriment afterwards to my friend, who would receive my usual "How d'ye do's," when we met, with a disdainful toss of the head, and "Upon my life, I don't know you, sir!"

'While strolling once with an acquaintance, on my first arrival in the colony, we chanced to encounter a couple of our men of rank, with one of whom my friend walked aside, to hold some private conversation, leaving the other and me standing together. As the gentleman was known to me by sight, and I knew him also to have lately come down the country in a direction which I was about to take on the morrow, I incautiously asked of him the state of the roads. But what was my surprise when, drawing himself up with a most self-important air, he replied, in the exact terms of the lawyer before-mentioned, "Upon my word, I don't know you, sir." Being yet a novice with respect to colonial dignity, I naturally concluded that some wag had been chalking P. B. or such-like villainous insignia upon my back (as is sometimes practised), which had brought on me this contemptuous rebuff; but on satisfying myself of the incorrectness of the surmise, I naturally began to marvel who this *great man* could be, and should doubtless have set him down as the Duke de las Sierras, or the Marquis of Aquaro at least, had I not been afterwards assured, that he was nothing more than a retired subaltern of infantry, some time rusticated here. "Then," said I, "this must be a land of high aristocratical feeling, indeed!"'

The exclusionists are not the only class who narrowly examine the pretensions of a candidate for admission to society: the emancipists in their turn exert their privilege against all those who have been sullied by a conviction *in the* colony. This is an irremediable offence. At the dinner given by the body of emancipists to sir Thomas Brisbane, a sort of Board of Green Cloth, says Mr. Cunningham, sat upon all applications for tickets, and rejected every one who had been punished or convicted by a colonial court.

The emancipists are, as a body, the most useful and enterprising portion of the community; and nearly all the manufactories and similar establishments owe their origin to their spirited activity. Their conduct in business appears to be honourable and upright, and it is Mr. Cunningham's opinion, that a purchaser stands a greater chance of being cheated by the tradesman of Oxford Street than

a circumstance which may be readily accounted for by the vigilance with which the former convict expects to be watched, and by his being well aware that the consequences of detection are much more serious than in the case of an unblemished dealer. Honesty preserved from such motives is undervalued; and our author himself observes, that people cry out that the "principles" are unchanged, the "terror of the law" and motives of "self-interest" alone keeping them in the path of rectitude. Mr. Cunningham's answer to this prejudice, though it does not show him deeply grounded in the springs of human action, is a sufficient refutation of such cant:—

'This I hold to be an illiberal and unworthy suspicion:—and if otherwise, what retains nineteen-twentieths of mankind in the paths of honesty but these two identical things?—honest principle often taking a harlequin leap from the breasts of even the nearest friends when *property* is thrown as a bone of contention among them. As long as people can gain more by a sort of decent roguery than by open *unqualified* honesty (without their neck or their future interests being endangered), they seldom scruple much. Honesty is in fact as much an acquired habit as a fixed principle; and by our *quondam* rogues getting into this habit, like all acquired habits, whether good or bad, it will not be very readily thrown off.'—Vol. ii. p. 144.

The government expenditure and the natural advantages of the colony render it a most profitable theatre for the employment of talent and capital. Individuals of great wealth are common among the emancipists: many who fifteen years ago were employed in the meanest offices and the lowest labour, are now in possession of incomes which Mr. Cunningham does not name, lest he should be accused of gross exaggeration.

It is Mr. Cunningham's opinion, that for £.30 a head any family may be landed upon a location in New South Wales, where the country is in a great measure cleared to their hands. He suggests the adoption, in the first instance, of a co-operative system, which might probably be attended with benefit. He would turn the combined exertions of the first settlers to clearing, cultivating, and erecting the necessary buildings upon one centrical farm, from which the individual settlers might ramify to their own locations after they had thus secured subsistence and lodging for themselves at the parent dépôt. It is a most important point to save expense in the outset, as it is pretty clear that the same buildings would nearly, at first, serve the purpose of three or four emigrants as well as one:—

'By constructing all the primary requisite buildings, fences, and stock-yard, upon one location at a time, and securing supplies of food at

the outset from it, until the same buildings and improvements could be gradually completed upon the whole three locations, what a great primary outlay of capital would thus be saved, without taking into account the consolation derived from each other's society and advice during such an anxious bustling period as that of first settling! Three individuals, arriving in the colony with 400*l.* each, mustering thus a capital among them of 1200*l.*, would do a fourth more at least with this sum, than a single individual possessing such capital of 1200*l.* *could*, besides placing themselves in comfort in one third of the time, and saving eventually a large sum by the proceeding. Having myself proved the benefit of this plan, I can speak with greater confidence of its merits. In fact, in this way, emigration may be successfully practised by large bodies of individuals possessing small capitals, who could not at all attempt it single-handed. Six individuals, for instance, with 100*l.* each in their pockets on arrival, willing and able to work, might soon form a comfortable asylum for themselves; and even if they landed with only 50*l.* a-piece, might start decently. The *requisites* here are the preservation of a good understanding among themselves, and a sufficiency of land, at no great distance one from the other, fit for farming purposes.'—Vol. ii. p. 150.

The utmost extent of land now granted to a settler is 2,560 acres, in order to be entitled to which he must prove himself to be worth a capital of £.2,000; a capital of £.500 being required for each 640 acres. At the end of seven years, a fourth of the estimated value of the grant must have been expended in improvements, at which time a quit rent commences to be paid of five per cent on the same value. As land has never been estimated at more than 5*s.* per acre, the value of 2,560 acres is £.642 2*s.*, and the quit rent £.32 per annum. Mr. Cunningham, who permits no opportunity of being jocose to pass him, thus describes the equipment and fare of a settler on his "quest" after a location:—

'A horse, with canvas bags for changes of clothes, &c. slung over behind the saddle, with a blanket under to wrap yourself up in at night, and a light cord round the horse's neck to tether him by, furnish your personal equipment while upon this quest; and if pushing into a country, at a distance from settlers, a pack-horse with provisions ought to accompany you. A steady white man, who is a good bush-ranger, and a black native, complete your train. The note of the bell-bird, tinkling like a dull sheep-bell, announces in our drouthy wilds the welcome presence of water (a very useful thing to know); and toward this sound you may confidently proceed.

'The settlers are generally hospitably disposed, and in these jaunts you are always welcome to such fare and such accommodation as they have it in their power to give. A tinder-box, or powder-flask conjures up a fire when you *bivouac* in the forest; while a few slips of bark, peeled from a tree, shelter you from the cold and wet;—and with a good fire at your feet, and a tin of hot tea before retiring to rest, you

may sleep comfortably enough. Your muskets will furnish you with birds of various kinds;—and with a brace of good greyhounds you will never lack kangaroos and emus; so that your *bush*-fare is a true sportsman's feast. You meet with some adventures probably both to astonish and alarm you, but these mostly end in your amusement. If you should hear a coach-whip crack behind, you may instinctively start aside to let *the mail* pass; but quickly find it is only our native *coachman,* with his spread-out fan-tail and perked-up crest, whistling and cracking out his whiplike notes as he hops sprucely from branch to branch. Neither must you be astonished on hearing the *razor-grinder* ply his vocation in the very depths of our solitudes; for here he is a *flying* instead of a *walking* animal, and consequently can very readily shift his station. On seating yourself comfortably by the fire of one of our backwoodsmen, your attention may probably be arrested by a heavy foot-tread approaching the door, followed by the heavier souse of a load tossed down at the entrance; and pricking up your ear at the observation of "Good Lord! what a *whapper!* where did you meet with that *old fellow?*" you hear a gruff grumbling voice reply, "Why, I had a tightish job on't wi the ould boy; he took a good many thumps on the head before I could *do for'un.*" Confounded at the meaning of this conversation, you bend your eyes with anxious gaze toward the door, which slowly opening, a desperate-looking ruffian, habited in a huge hairy cap and shaggy kangaroo-skin jacket, dappled thickly with blood, stalks solemnly across the floor, casting a grunting sort of recognition to each person around, and while teasing out the tobacco-leaf to charge his pipe, relates with the most cool villanous indifference that he has been fortunate enough to kill *an old man* as he came along, whose hind quarters he had just brought with him to make steaks of for supper! ending his horrible recital with a significant glance at *you,* while drawling out through his husky throat, "It will be a treat to the gemman, as he is a new-comer!" You begin to fancy you have got into a den of cannibals, and that you are doomed to join in their horrible repast, or perhaps *be broiled yourself* in event of refusal! To your great relief, however, the "old man" turns out to possess the appendage of *a tail,* and is in fact no other than one of our old acquaintances, the kangaroos!'—Vol. ii. p. 157.

The new settler is supplied with convict servants on a written application to the government, pointing out the particular servant wanted. The usual allowance to them is a peck of wheat, seven pounds of beef, or four and a half of pork, two ounces of tea, two ounces of tobacco, and a pound of sugar, weekly; besides which, the majority of masters permit them to raise vegetables in a little garden allotted for their use. Clothing, and a few articles of furniture, are also claimed from the settler. These are the regulated allowances; but when the rations are ultimately produced from the farm, they are not strictly confined within this limit. They commence labour at sun-rise, and leave off at sun-set, being allowed in that time

two hours for meals. The difficulty in managing convict servants exists only during the first twelvemonths. Accustomed to an idle and unsettled life, it is a severe task for even the best disposed to sit down to regular and steady work: the great body of them, however, turn out to be good and serviceable labourers. Inducements to be dishonest are few: wholesome food and healthy employment, in scenes far from opportunities of either drunkenness or thieving, gradually displace the feverish restlessness which is as well the cause as the consequence of crime, and effectually restore or produce habits of industry and honesty. Bush-ranging, which is a subsistence procured by escaping into the woods, and hanging about the settlements, for the purposes of plundering, has been a severe scourge in Van Dieman's land, and it appears was becoming so in New South Wales: the judicious and decisive measures of the present governor (general Darling) are however represented as putting an effectual stop to a system of crime so ruinous to all parties.

The method taken to destroy the banditti of Van Dieman's land deserves the praise, at least, of ingenuity. "Two daring fellows of this class of convicts, were induced, on a promise of free pardon and other rewards, to *join the gang*, participate in all their marauding exploits, and knock every one of them on the head, whom they could so dispose of, without detection."

Mr. Cunningham's observations on the proper treatment of convicts after their arrival, strike us as just: his opportunities of observing them have been great, and entitle him to speak. The judicious and successful measures taken by him to secure the health and good behaviour of his charge in the vessels, of which he has been superintendant, give us a confidence in his opinion. His account of his experience in these voyages is very instructive.

It is necessary, that the due execution of orders may be secured, and the remainder be kept in subjection, to pick out a portion of the convicts to perform the duty of petty officers. It seems paradoxical, at first sight, that these men must be the thieves who are most notorious for the number and nature of their offences. "The veteran thief," says our author, "assumes the same sort of lofty port and high-toned consequence over the juniors of the *profession*, that the veteran of fifty campaigns does over the raw bumpkin of yesterday." The old thieves are, moreover, the most *trust-worthy*: for if they perceive the impolicy of robbing themselves, they take especial care that no other person shall do it. There exists among them, what Mr. Cunningham calls, a sort of spurious law: "Never steal your-

self when you can persuade another to steal for you," a maxim which contributes to the safety of the employer of an old thief. The estimation of their particular society operates so strongly among this class of people, that, to use our author's phrase, a convict who pretends to be an honest and injured character, had better hang himself at once. He would be execrated and worse than excommunicated. It being the rogue's interest to appear a greater thief than he is, the whole effort of the voyager is spent upon convincing his shipmates of the enormity of his crimes, and the dexterity with which he has committed them. Mr. Cunningham heard one man wind up a rapturous eulogy of his own exploits with these words: "By G—, I could steal a shirt from a fellow's back without his knowing it."

Mr. Cunningham, as might have been anticipated, has good reason to believe that it is a vain attempt to produce a reformation among convicts during their voyage, thus crowded "knave upon knave." The well-disposed and religious reformer may readily make hypocrites, but that seems not a very desirable result. Abundant confirmation of this doctrine is to be found in these pages. From many anecdotes, amusingly narrated, we shall only extract a short passage, indicative of Mr. Cunningham's method of treatment, and the difficulties of his situation:—

'To punish lightly, but *certainly*, is therefore a useful maxim, increasing the quota with increasing delinquency. Crimes are seldom of sufficient magnitude on board ship to call for *severe* punishment; while by *passing over* one offence, you probably sow the seeds of "many more."—By showing them that you have their interest and comfort at heart, that justice is your aim, and that, while you are ready to give all due encouragement to the well-behaved, you are no less determined to exercise your authority upon evil doers, the most turbulent are soon led to appreciate the value of order and obedience. They are always cowardly, from being sensible they are in a bad cause, and no less insolent and overbearing if they think you are *afraid* of them. A man, to enforce his authority, must go among them and beard them without timidity; otherwise they will begin forthwith to howl and rattle their chains.—The really troublesome among them seldom exceed one in ten; and by keeping your foot upon the necks of these, all the rest will follow like lambs. The cockneys are, of course, beyond all dispute the worst, and a leaven of a dozen of these is enough to infect a thousand of the country *yokels*, with whom peace is generally the order of the day. Such a number of these *townies* will keep a hundred of the others in subjection, from the manner in which they cling together, and from their overwhelming *oratorical* abilities.—The less-gifted *yokels* have not a chance with them, if the strong hand of power is not stretched out for their protection. A ship

which took in her *yokel* cargo in the river, sailed round to Portsmouth to fill up with a *dunnage** of thirty *townies,* when the whole boast of the simple *yokels,* while proceeding round, was, how they would "*serve out*" the *townies* on the voyage: but before they were a week together, the handful of *Spartans* left the others scarcely a pair of decent trowsers wherewith to clothe their nakedness.

'Most desperate combats sometimes take place between the two parties, in badly-regulated ships, and murder has often nearly ensued; for when the bristles of the *yokels* are fairly up, they level the cockneys as if they were playing at nine-pins; *bullying* being the chief qualification of the latter. A pair of brats, with whom a stout fellow might have played at *te-totum,* and who had flourished at the West-End-Fair rows, gave me more trouble than all the other hundred and fifty on board, from their entering readily into any mischief to which their more cunning elders put them up. One of these was endued with the natural gift of "coming the piteous" (to use their own slang) in an unrivalled manner. When accused of an offence (and such instances were far from unfrequent), he would declare his innocence with the most pathetic vehemence — his face expressive of poignant agony, and the tears streaming down it like a shower from a watering cart— while, if failing to convince me, he would drop upon his knees, clasp and wring his hands, and implore my forgiveness in a strain which even a heart of ice could not withstand, and which succeeded more than once to thaw mine; till turning suddenly round one day after forgiving him, I caught a glimpse of my late penitent kicking up his heels, winking, and thrusting his tongue in his cheek, to record his "wictory."

The results which Mr. Cunningham has collected from his voyages in charge of female convicts are pretty much the same as those deduced from his experience of the males: that it is impossible to proceed a step in reformation as long as they associate together in a crowded ship; that it is best to give them all indulgence compatible with the preservation of order, and to encourage hilarity and every species of amusement, as the most innocent occupation of their thoughts; that the pretenders to morality are already great hypocrites, and if they "philosophize" or "religionize," they are certainly drunkards. The women formerly lived promiscuously with the seamen on their passage out; and we fear Mr. Cunningham may have exposed himself to some odium, by having the honesty to declare, that such voyages were attended with greater benefit to the females than under the present system. It appears that the women are more difficult to control than the men, on account of the excitability of their tempers, and because they reckon upon the usual forbearance shown to their sex.

* A sea-phrase, signifying a kind of make-weight.

After Mr. Cunningham has finished his ample narration of convict voyages, he takes his charge ashore, and continues the history of their fate; records the changes that have taken place in their management, and suggests improvements of various kinds. We cannot, however, follow him: although he is always worthy of attention, and our respect for his work will have been proved by the length of this notice. It must be observed, that in this article it has been our design to confine ourselves to facts. The communication of even an abridgment of this author's details appeared enough for once: the speculative questions of the propriety of transporting felons to New South Wales, or of the justice of the legislative measures that have been passed for the regulation of the affairs of the colony, we have advisedly left for the present untouched.

In taking leave of Mr. Cunningham's work, we have but one word to say of his style: we should have been much better satisfied with a graver tone: we do not wish that he had sacrificed his stories and his anecdotes, but we should have thought better of his taste if he had preferred a simpler method of narration. The jeer, the slang term, and the sneering joke, may not be out of place in a convict ship, but they disgrace a book of solid information, of patriotic views, and upright intentions.

ART. IX.—*Hans Holbein der Jüngere von Ulrich Hegner.* Berlin. 1827.

SWITZERLAND, a country famous for the magnificence of its scenery, and the bold and heroic spirit with which its inhabitants have maintained their independence and liberty in many glorious struggles against the domination of Austria, has contributed its share of illustrious men to literature and to the arts. The collection of *Minnesaenger* by Rudiger Manesse, published by Bodmer towards the middle of the last century, proves, that the warlike tribe of mountaineers in the thirteenth and fourteenth century, were not insensible to the charms of song. As early as 1459, the town of *Basel* was erected into an University by the favour of Æneas Sylvius (Pope Pius II), who describes it as a populous and opulent place, where the houses rivalled those of Florence in comfort and elegance. Little more than half a century afterwards, Basel was distinguished by Erasmus, Frobenius, and other eminent men. The work of Reformation was begun in Switzerland by Zwingli as early as by Luther in Germany, and a large part of the population had purified the church of many of its abuses, without the

sensual and sinister interference of a Henry the Eighth. Conrad Gessner, who astonished the world by his universal knowledge, can be compared only to Bacon. Haller, and John Müller, two of the brightest ornaments of German literature in the last century were Swiss by birth. *Lips* at Zurich was one of the best engravers of our days, and to the talent of *Fuseli*, England has done full justice, while the landscape-painters of Switzerland are many in number, and high in reputation.

But Holbein was the man who has been hitherto considered as the most brilliant genius Switzerland has produced in the art of painting. He is here universally believed to have been a native of Switzerland. His earliest biographers, *Mander* and *Patin*, asserted that he was born at Basel, and they have been copied by all our biographical dictionaries. Another biographer, however, appears, himself a Swiss, and known as the author of some other clever works—and proves, on the most satisfactory evidence, that Holbein was born 1498, at *Augsburg*, in Germany; but that his father, a painter too, came to Basel between 1504-8, probably at the invitation of the magistrates of Basel, as they required a painter to decorate their newly-built council-hall. But, as education, rather than the accident of birth, is the great former of character, we hope our Swiss friends will gracefully and quickly surrender the pretensions they cannot maintain, and not give to the cradle in which eminent men have been rocked, an undeserved degree of importance. For the locality of their swaddling clothes we care but little; but the place and the circumstances which developed their mental energies cannot but be full of interest.

Holbein gave early proofs of his aspiring talent. When fifteen years old, he exhibited an oil-painting, which, though defective in colouring, raised high expectations by its clearness and softness of execution. This painting is still to be seen in the public library at Basel, and bears the date of 1513. Of the same year, a sketch, with the monogram HH, is extant, representing three watchmen with halberds. His two brothers were also painters; only a few paintings are left of the elder, *Ambrose*, and none of his younger brother Bruno; both died prematurely. In the year 1520, Holbein was presented with the freedom of the town of Basel.

The education of young artists at this period differed widely from the scholastical method of our days. They served as apprentices, and helped their master where and how they could; they learnt the art of grinding colours, and their drawings were done either with the pencil or for the pencil. Hence their imagination was little engaged in abstractions, but their eye

became soon accustomed to the various hues of nature, and to their harmony. As adepts in drawing, they worked for form-cutters and glass-painters; while convents, churches, and chapels, gave scope to their skill and imagination. They made cartoons for fresco-paintings; and, as painting was the chief object, knowledge of the management of colours was of course considered most indispensable. They prepared the colours for their masters, laid them on the palette, and did the less important part of the work. They often executed minor orders. They dressed every thing in the costume of their time, and were unembarrassed by the historical, mythological, anatomical, and geometrical knowledge of modern times.

Switzerland held constant communication with Germany and the Netherlands, but less with Italy. A number of painters lived at that time in Germany, whose names have not been recorded by any German Vasari, and their master-works have been long neglected. In Holbein's time Albrecht Durer enjoyed the primary reputation. Martin Schoen had preceded him at Colmar in Alsace; Manuel painted at Bern, Hans Asper at Zurich, and at Basel itself there were other painters besides Holbein. Half a century before him the *Dance of Death* had been painted, after the disaster of a plague, on the walls of a church-yard at Basel.

These German artists painted with great truth and vigour, although they did not know how to *idealise* like the Italian painters. They watched nature closely, and imitated it closely; and, if occasionally harshness may be objected to their productions, the simplicity which keeps them clear of every exaggeration, may be considered as an atonement for that fault. There is great truth in their portraits, in which, however, the features only are wrought with any considerable care. The council-hall at Basel gave occupation to architects from 1508 till 1520. It is believed that Holbein painted three of the walls, only one of which (hid behind old tapestry, and discovered again in 1817) has escaped the ravages of time. It represents M. Curius Dentatus cooking his dinner, whilst the Samnites offer silver plates with money. "The last Judgment," where a pope, with priests and monks, sink into the flames of hell, is not the work of Holbein, but was done in 1610 during good Protestant times.

It is foreign to our purpose to record the numerous paintings of Holbein at this period, even those he executed in England. We refer those who have any curiosity on the subject, to the work before us. We shall only communicate to our readers some notices of the biographer on the life and character of Holbein.

Æneas Sylvius formerly remarked of the people of Basel, that "they pay reverence to the images of the saints, go frequently to church; the men are tall, not gaudily but decently dressed, and like a good table. In the shades of oaks and elms, they amuse themselves with running, leaping, fencing, and wrestling; they practise with the cross-bow, and play at balls. They are an honest, faithful people; have hardly any vicious dispositions, but indulge in wine and women."

Now we know that, half a century after, the change was for the worse. The victories over Charles the Bold, the campaigns in Italy, and the war against the emperor Maximilian, had brought rich plunder into the poor cottages of the mountaineers; their pastoral habits had given way to the wild insolence of a soldier's life; their taste for convivialities and sensual enjoyments had found ample gratification in the luxurious towns of Italy, and their victories had rendered their temper haughty and turbulent. So intolerable appeared to them the tediousness of a quiet country life, that some thousand restless, extravagant fellows, after the Burgundian war, united themselves in "a fraternity of mad life," as they called it themselves [Muller, *Swiss History*, vol. v. p. 155], and went singing, dancing, and merry-making from town to town, putting the authority of the worthy magistrates to scorn. Sins took names that were not sinful, or indulgences swept away the control of conscience. Now Holbein fell on these "evil days;" he had a powerful frame, and a strong propensity to sensual pleasures. His biographer does not attempt to describe him as an immaculate person; but the continual efforts he makes to soften, to palliate, to disguise the aberrations of his youth are deserving of reprobation. Patin [*Vita Holb.*] says, "C'étoit un brave homme, mais si gueux, qu'il n'avoit pas quelquefois de quoy diner." Now this we allow only proves him to have been a necessitous painter; but when Holbein had made on the margin of the book of Erasmus, *Laus Stultitiæ* (Praise of Folly), a number of drawings with the pen, Erasmus, after he had found his own portrait on one leaf, wrote under a figure, which represents a Bacchanalian with a goblet in one hand, and a girl in the other, the name of "Holbein." Erasmus knew how to retaliate.

A good number of stories are told of Holbein. Unable to pay his debts in a tavern, he discharged the bill by decorating the walls with paintings of flowers: another time, for a similar purpose, he covered the walls all over with "the merry dance of peasants;" and in order to deceive one of his employers, he painted his own legs beneath the high

scaffolding, that the watchful citizen should not suspect his having abandoned his work to carouse in wine cellars. Here our biographer gravely says, "a man of spirit could not be expected to sit quietly painting the whole day long in the heat of the sun, or in the rain; if he saw a good friend go to the tavern, he felt disposed to follow him." Holbein did not keep the best company; but in this he resembled Rembrandt, who said, that when he wished to amuse himself, he avoided the company of the great, which put a restraint upon him; "for pleasure," he adds, "consists in perfect liberty only." Holbein no doubt felt a contempt for the great people of his time, as they did not understand much about his art, which he valued above all things.

Holbein's wife, and he married early, was a perfect Xantippe, too shrewd to be despised, and not handsome enough to be admired. In the library at Basel is a family picture of Holbein, in which she is introduced, almost unconscious of the two children about her; but Holbein very shrewdly forgot to paint himself there. But he took care of the interests of his family, and obtained them a pension from the magistrates of Basel, during his stay in England. This pension was paid for past services, and in order to induce him finally to fix his residence in Switzerland.

The absence of matrimonial felicity was probably an additional motive for Holbein to seek employment as an itinerant painter. He visited several Swiss towns, but certainly never saw Luther and Melancthon, so that the portraits of Luther and Melancthon exhibited in Italy, Germany, and England, as works of Holbein, cannot be genuine; and it is very improbable that he should have copied the works of Lucas Cranach, who several times painted the portraits of those lights of the Reformation. Erasmus was frequently painted by Holbein; and as those portraits were sent as presents to the friends of Erasmus, Holbein's name became known all over Europe. Yet Erasmus seems to have treated our painter with a kind of supercilious, scholastic pride, and cannot easily be forgiven that cold and heartless epistle to P. Ægidius at Antwerp, where he thus speaks of Holbein: "The bearer is the man who painted me. Although he is a distinguished artist, I shall not trouble you by recommending him. If he wants to see Quintius, and you have no time, your servant can show him the house. He goes to England to scrape some money together: petit Angliam, ut corradat aliquos Angelatos."

Holbein came to England in the year 1526, and sir Thomas More wrote to Erasmus that he would take care of him.

Patin gives another reason for his departure: "Imperiosæ uxoris contubernium amplius ferre se posse diffidebat." Sir Thomas received him into his own house at Chelsea, and there Henry VIII. saw him one day, when paying a visit to the former. He took him instantly into his service, gave him apartments in the royal palace, and a salary of 30*l.* a-year. Holbein's long residence in the house of sir Thomas More had a good effect upon him; for although Erasmus describes the women of England as "nymphæ divinis vultibus, blandæ, faciles," yet Holbein seems to have resisted those temptations in London, which rendered his conduct at Basel so reprehensible. Holbein twice revisited Switzerland, once in 1526, the second and last time in 1538: the zealots had just destroyed all the images; and even some painters, infected with the spirit of the age, had declared they would rather starve, than break the second commandment. In England the same work of devastation took place; but Henry VIII., notwithstanding, gave Holbein abundance of work, as he had to paint all his royal consorts in succession, besides a number of portraits for English noblemen.

One day when Holbein was privately painting some lady's portrait for the king, a nobleman expressed a desire to see his works. Holbein refused to open the door, but the nobleman attempted to force it, when the painter rushed out furiously, and hurled his lordship down stairs. With a broken head, the nobleman went to the king, to complain of the insolence of the artist. But Henry had been already informed of the accident by Holbein himself, and having in vain endeavoured to appease the angry lord, dismissed him by saying, "If you think that this painter is of little value to me, know, that I can make of seven peasants just as many lords, but of seven lords I cannot make *one* Holbein."

His sketches of heads, now existing at Kensington, of various people who lived at the court of Henry VIII., and among them one of that monarch, are exquisite productions. Imitations of the original drawings have been published by J. Chamberlaine, fol. Lond. 1792. One picture of Holbein is supposed to be in Surgeons' Hall. Some wood-cuts to Cranmer's Catechism (1548) were made by Holbein. Our biographer, who had never seen the work himself, was led by Walpole [*Anecdotes of Painting*] to believe, that all the wood-cuts were from Holbein. We have examined the copy in the British Museum, and are convinced that, except the two wood-cuts, p. 150, with the monogram H. H., and p. 210, HANS HOLBEN, but few other wood-cuts can be the work of our artist. They differ so much from those which bear the signature of Holbein, and some are so inferior to them, that

internal evidence abundantly denies him to be their author. We have also seen Rastell's "Pastyme of the People," and are very much disposed to think that the wood-cuts which represent the kings of England are the work of Holbein, although Walpole [*Catal. of Engravers*, p. 8] is of the contrary opinion.

With respect to the famous "Dance of Death," the biographer tells us, what we have already stated, that the painting on the wall of the church-yard at Basel, is not the work of Holbein: the costumes are of a time anterior to Holbein. There was also a "Dance of Death" painted on the wall of a convent at Bern by Manuel, who lived a little before Holbein. Only on the supposition, that the Dance of Death at Basel was Holbein's work, could that of Bern be said to be the first of its kind. But, on comparing the costumes, it appears again, that the Dance of Death at Bern must have been painted subsequently to that at Basel. No Dance of Death of an earlier date was known, until another was discovered on the wall of a convent of nuns at Klingenthal, on the right bank of the Rhine, at Basel. This bears the date of 1312, and is therefore a whole century prior to the other, which cannot have been painted before the year 1439. It has been supposed, that the idea of the Dance of Death was taken from certain processions very much in vogue during the middle ages, and it is singular enough, that up to this day, in funeral processions in Italy, long white robes are used, which wholly cover the head, with only two holes for the eyes. But the coincidence of another plague at Basel, which, about the year 1312, destroyed above 11,000 people, renders it more than probable that the artist availed himself of the impression which such a dreadful mortality must have made on the minds of all the surviving, to represent how inexorable Death drags to the grave, in terrible sport, rich and poor, high and low, clergymen and laity. A church-yard was the proper place for such a representation, which was intended not only to record the horrible calamity of the plague, but also to remind every man of his unavoidable fate.

Holbein, who must, as a youth, have frequently seen this Dance of Death at Basel, may in after-life easily have conceived the idea of executing it somewhat differently in wood-cuts: he certainly made the drawings, which the wood-cuts have partly copied. These drawings were formerly in the Arundel collection, but, after its dispersion during the civil wars, fell into a variety of hands, until they were bought in 1741 by prince Gallitzin, who transported them to Petersburg. In Holbein's time, before engraving had become general, almost

every book contained some wood-cuts, at least for the initial letters of the chapters. Whole alphabets, with representations of heads, children, animals, birds, or flowers, were made for the use of printers. Holbein invented three such alphabets, one of which represents a Dance of Death. They are done so boldly, and, in a narrow space, so distinctly, that Mr. Douce, who is deservedly considered as an excellent judge of these matters, was led to suppose they had been engraved on metal: it was thought impossible to bring such softness into wood-cuts. Lips, a first-rate engraver, however, was of opinion, that the alphabet was cut in wood. The library at Basel possesses an impression of this whole alphabet, with the name of Hans Lutzelburger in *moveable* letters. It was inferred from this, that he had made the wood-cuts; but if Holbein had only made the drawings, and this Lutzelburger the wood-cuts, why did Lutzelburger not cut his name on the plate itself? Might it not rather be the *excudit* of the bookseller than the name of the artist? We beg to remark here, that the person to whom the copy of the Dance of Death in the British Museum belonged, inferred from the monogram HL, that Hans *Ladenspelder* was the inventor of those designs, although there is no other authority whatever for such a supposition.

If the honour of the invention, and of the execution of the Dance of Death belonged to Lutzelburger, he would have unquestionably a right to be considered as one of the best wood-cutters that ever lived, but no other work by him is known, nor is his name ever mentioned. In addition to this, Borbonius, a friend of Holbein, and at the same time in England with him, speaks in an epigram "De Morte picta a Hanso Pictore nobili;" this proves, at all events, that a Dance of Death was painted by Holbein, and, as the testimonies of all the antecedent writers, down to Ottley, are in favour of Holbein, we shall wait yet for fresh evidence from Mr. Douce, which he is collecting, as we understand, before we shall deprive Holbein of the credit which is due to him for his inimitable work.

On the authority of Nieuhoff, a Dutchman, who came over to England with William III., Mr. Douce asserts, that Holbein had painted the Dance of Death on the walls of Whitehall. Borbonius might then have had in mind this painting, when he mentioned the "Mors picta" of Holbein; but three biographers of Holbein, Mander, Sandrart, and Patin, were in England before Whitehall was destroyed by fire, and make no mention of this painting, although Mander [Schelderboeck, p. 222] speaks of other paintings of Holbein, particularly the portrait of Henry VIII., that were preserved at Whitehall. *Mander*

states, that he also saw at Whitehall the portraits of Edward, Maria, and Elizabeth, by Holbein, "die oock ter selver plaetse te sien zyn." *Patin* [p. 170] says, "En Whithal dans l'antichambre du Roy il y a sur le pigeon de la croisée, de la main d'Holbein, le portrait d'Henry VIII., et des princes ses enfans;" and he mentions five other picture-rooms which he saw there.

Sandrart, whose work was published in 1675, also mentions the paintings of Holbein at Whitehall. Is it credible, that three travellers, two of whom were distinguished artists themselves, should have been at Whitehall, and seen there the paintings of Holbein, without taking notice of the Dance of Death, if it had been in that place? We must therefore believe, that Borbonius spoke of the drawings which are now in the possession of prince Gallitzin, and which, at least, partly appear to be the originals for the wood-cuts of the Dance of Death.

In whatever way this point at issue between Mr. Douce and our biographer may be finally settled, we safely can recommend the work of the latter to the attention of our readers, and we look upon it as a very valuable acquisition for the history of the arts.

Holbein died of the plague in London, 1554.

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WESTMINSTER REVIEW.

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ART. I.—*The Life and Correspondence of Major Cartwright.* Edited by his Niece, F. D. Cartwright. 2 vols. Colburn. 1826.

MAJOR CARTWRIGHT was not only a sturdy Parliamentary Reformer, but an honest, upright, and amiable, man; one of those truly estimable patriots, who, while they love their country, and spend their lives in unremitted efforts to improve the political condition of their fellow-citizens, stretch forth their thoughts, at the same time, to the interests and happiness of the whole human race, and do something—do much—in their day and generation, to make future ages better than the present or the past.

In his domestic relations, he appears the model of all that is good, gentle, and gentlemanly; beloved with no common affection, served with no common zeal, and honoured with no common esteem. It is impossible to follow him into his daily walk of existence, without admiring the many excellencies of his character, and without wondering at that strange and vicious perversity which, on account of honest political opinions, would load so good a man with obloquy during his life, and even pour forth its vials of contempt and bitterness upon his grave.

Whether the course he pursued for the furtherance of his political views was always the best possible will be hereafter considered; but, that he thought it the best, and that he acted from this persuasion, is evident from the whole course and tenour of his conduct through his long and eventful career.

Major Cartwright has been rather erroneously considered the father of modern parliamentary reformers; since, long before the Major wrote his first pamphlet (viz. in 1776) many works had appeared, in which it was contended, that the holding a new parliament at least once in the year had been for many ages the law of the land. An universality of suffrage for all who had

attained the age of twenty-one, and the protection of the ballot, had been frequently advocated; and Burgh, in the "Conclusion" to his "Political Disquisitions," had recently suggested the propriety of "a general association for restoring the constitution," which he imagined might be effected "by petitions to the king and parliament, signed by a clear majority of the people of property, for obtaining the necessary acts of parliament, and by raising and having in readiness the strength of the nation, in order to influence government, and prevent mischief."*

Major Cartwright brought all these propositions together. He contended that annual parliaments and universal suffrage were the ancient unalienable and indefeasible, rights of the people; were derived from nature, recognized and adopted by our Saxon ancestors, and not to be abrogated by any act or acts of parliament.

He proposed a plan for the equal division of the people, whose votes were to be taken at the same hour on a day certain in every year, in their respective parishes, and all voting to be by ballot. To attain these objects, he quoted Burgh's suggestion of "a Grand National Association," called upon every man of intelligence and influence to promote such an association, and concluded his work with these words: "I hope there lives not a man upon our isle so unworthy of the society of men, who, if need were, would not subscribe it with his blood."

The creed of the Major thus early settled, was religiously adhered to by him to the hour of his death.

The Major was not, however, the only eminent man who maintained these opinions, and endeavoured to support them; the result of which was, disputes on unimportant particulars, which no doubt impeded the progress of the great object of reform.

Much controversy has been elicited by the question as to the antiquity of the House of Commons, or rather of the Commons sitting in Parliament: some had, like Brady, contended that the Commons existed only by permission of the Crown; others, that the sitting of the Commons was coeval with it, and essentially and equally part of what they called the Constitution. Out of the doctrine, so frequently repeated, and so flattering to national self-love, that our Saxon ancestors were represented in parliament by members freely chosen by themselves, grew those frequent assertions of "*right,*" and "*constitutional privileges,*" which removed the great question from the rock of reason to the sands of uncertainty.

* Burgh, vol. iii. p. 434.

Sir Edward, afterwards the celebrated lord, Coke, at the close of the parliament in the 35th of Elizabeth, of which he was Speaker, in his speech to the queen before both Houses, said, "that before the Conquest, in the high places of the West Saxons, we read of a parliament holden; and since the Conquest they have been holden, by *all* your noble predecessors, kings of England.

"In the time of the West Saxons, a parliament was holden by the noble king Ina, by these words:—'I, Ina, king of the West Saxons, have caused all my Fatherhood, Aldermen, and Wisest Commons, with the Godly-men of my Kingdom, to consult of weighty matters.' Sir Edward explained the meaning of these words thus—

"1. Fatherhood, meant Bishops. 2. Aldermen, were Noblemen. 3. Wisest Commons, meant Knights and Burgesses. 4. Godly-men, are your Convocation House."

"This," he said, "appeared in a book which a grave member of this House delivered to me, which is entitled, 'Modus tenendi Parliamentum,' out of which I learn this, and if any man desires to see it, I will show it to him."*

But the said book having been shown by Selden and Prynne to be a forgery of comparatively modern date, all the reasoning built upon it must of course fall to the ground. As all men dwell upon what they desire to be true, the "Modus" has been frequently referred to, notwithstanding its want of authority, and the Major was one of those who most pertinaciously adhered to it.

It is our object to point out the true origin of the House of Commons; to show how it was continued and preserved amidst the convulsions of the state, and against the attempts of our kings to abolish it altogether: its composition, the duration of Parliaments, their frequency, the law respecting their meetings, the breaches of the law by our kings and queens, until the final adoption of fraud for force, which converted the House into a branch of the grand aristocratical combination against the people: to shew also what has been attempted towards obtaining a reform of the House, and the conduct of the two great factions in respect to Parliamentary Reform and its advocates.

We are much deceived if the time is not approaching, when a demand for a thorough reform of the House of Commons will

* D'Ewes's Journal, fol. 466—516. Heywood Townshend, in his Historical Collections, makes sir Edward Coke, in compliment to Elizabeth, call Ina a queen. Fol. 45.

become much more general than it has ever before been, and we shall be greatly disappointed if the demand be not supported by more persons possessing influence, wealth, and learning, than ever before took part in this important matter. The mysteries of government are beginning to be unravelled by great masses of the community, and every new agitation of the question of Reform will bring with it new, and, at length, adequate support from the governed.

These being our opinions and expectations, we feel ourselves called upon to promote, as far as we can, this all-important object, and by furnishing useful information to those who have neither leisure nor the means at hand to obtain it for themselves, to put the question on its right foundation, and to beat down the sophistry of those whose interest it is that the government of this realm should be placed under the uncontrolled power of the aristocracy.

The subject may be conveniently divided into two parts: the first commencing with the most remote period, and terminating at the Revolution of 1688; the last beginning at the Revolution of 1688, and ending at the present time. It is of the first or more ancient part only that we intend to treat now, reserving the last or more modern part for a future occasion.

The Saxon kings of England were assisted and controlled by a council or assembly called the "*Witena Gemot,*" but neither the composition nor the power it possessed is accurately known.

The Gemot and its members had various appellations, implying both wealth and power. These being the attributes of a *Witan,* it followed, of course, that to those who possessed them, wisdom should also be attributed. A Witan was, therefore, a powerful, wealthy, and wise man.

Mr. Turner, in his history of the Anglo-Saxons, has examined the subject with great care, and has, in most cases, drawn his inferences with singularly sound judgment; he has not, however, found any satisfactory evidence of the qualification necessary to constitute a man a member of the witena-gemot; he says, "no minute information of the witena-gemot can be given, but enough remains to show that it was composed of bishops, princes, and great men."

It is clear, however, that the nobles who sat in the witena-gemot were not elected by the people, and owed no portion of their political importance to any act of theirs. These nobles were a factious, turbulent body, who, like every other privileged and distinct class of men, looked to their own immediate interest, whether well or ill understood, and they looked no further; their own class being every thing, and the people nothing, ex-

cept, indeed, inasmuch as they, on some occasions, could be made subservient to the selfish purposes of the more influential body.

Witena-gemot have been charmed words, mysteriously used to convey the notion of a meeting of truly wise men, selected by the great body of the people, and sent by their suffrages to the national legislative assembly to control the king, and make good laws for the advantage of those who appointed them to office; and it has been pretended that they performed these duties in an extraordinary and matchless manner, than which scarcely any thing can be more extravagant and untrue. Some of their institutions were no doubt well enough adapted to the then existing state of society, and when modified and made to conform to a somewhat more improved state of society, were found useful; but to pretend, as has been pretended by many learned and inquisitive persons, that a race of men who, excepting the clergy, must necessarily have been unlettered, as we know they were barbarous, cared much for the comfort, the happiness, and the freedom of the common people, and to hold up their conduct and their laws as examples for a civilized and polished people, is extremely absurd. Had the Saxon polity and arms-bearing been such as the admirers of Saxon times would persuade us they were, it would have been impossible for William the Norman to have conquered the country as he did, or to have governed it as he governed it during the remainder of his life.

Under the Norman dynasty councils were occasionally held, and sometimes a larger assembly, called the *commune concilium* These *common councils* appear to have been composed of prelates and nobles who held lands of the king *in capite,* and of none but those who held by that feudal tenure.

This mode of governing the country was continued by several of the Plantagenets, with but little variation, until the 49th Henry III, when cities and boroughs were, for the first time, commanded to send representatives to a legislative assembly.

Some previous legislative assemblies had been attended by knights of counties, but this seems to have been an irregular, and not a customary or legal, proceeding; and it may be doubted even whether the knights so sent made any part of the *commune concilium,* or were commanded to attend to give such local information as was desired. It has been contended by many industrious investigators of this matter, that these knights were tenants *in capite,* and represented the inferior tenants of the king, who had become so numerous that they could not be summoned individually: it was, indeed, extremely difficult, if not

impossible, to ascertain who ought to be summoned, and hence, knights as representatives of the king's tenants were occasionally commanded to be sent, were elected in the county courts, and made part of the *commune concilium*. Others have asserted, that the knights were elected by their peers only, and not in open county court, by all who owed suit and service, and were bound to attend them; but no satisfactory evidence has hitherto been produced on the subject. It is probable, however, that the election was made in the county courts by those who were present, without much regard to their qualifications; elections were conducted in a very rude and summary way for several ages after the Commons were admitted as one of the Estates in Parliament.

The foreign wars, the crusades, and the domestic feuds with the barons, from which the kings of England were seldom free, produced the most terrible calamities; yet, inasmuch as these increased the necessities of the king and the barons for money, or its equivalent, beyond the amount which could easily be extorted by either the king or the barons, or by both, they were compelled to relax the bonds of the feudal tyranny, in favour of such of the towns, and occasionally even of such particular persons, as were able to furnish the necessary supplies. This was to a great extent a compensation for the evils inflicted on the nation, and was taken advantage of from time to time in favour of the liberties of the people.

At length in the 49th Henry III, the king being then in the custody of Simon Montford, earl of Leicester, and his party, an appeal was made to the people by writs issued in the king's name, to counties, cities, and boroughs, commanding each of them to which a writ was sent, to return two, and each of the Cinque Ports to return four representatives to parliament, and these, with the prelates, earls, and barons, formed the first parliament, in which the Commons appeared by their delegates, of which there are any authentic accounts, and probably the first parliament ever so constituted.

This parliament sat from the 21st January, to the 24th February, A. D. 1264-5, a period of 33 days.*

The earl of Leicester's party being soon afterwards defeated at the battle of Evesham, and himself slain, the king was again restored to power, and publicly disclaimed all the acts done in his name, while he was under the control of the earl of Leicester.

From historical evidence, and from passages in some parlia-

* Prynne's Writs, P. iv. p. 2.

mentary documents, it appears that persons who were not members of the great council or parliament, did at times attend that assembly, probably to furnish local evidence; but there is no fact related in history, nor any known entry or any roll, or other parliamentary document, which proves that cities and boroughs were commanded to send representatives to parliament before the 49th Henry III. The proceeding appears to have been an innovation on the practice, which, up to that time, had prevailed, and was not again resorted to during the remainder of that king's reign.

Of all those who have contended for the existence of parliaments, consisting of King, Lords, and Commons, previous to the 49th Henry III, sir Martin Wright, in his Appendix to his *Introduction to the Law of Tenures*, is, perhaps, the best entitled to attention. He argues, that the charter of John contemplated a kind of representation of all the *liberi homines regni* by his tenants *in capite*, and although it did not take effect, shows that a kind of representation, or rather restriction of the *commune concilium*, was then thought of; and, as a reasonable and proper representation, was no doubt a desirable measure to prevent tumultuary, confused, and disorderly councils, it can be no wonder that a proper representation was soon afterwards established." He then proceeds to show what appeared to him reasons why the *commune concilium* consisted only of the *magnates* during the minority of Henry III, and then observes, "It is very certain that the representation by knights, citizens, and burgesses, took place sometime in this king's reign, perhaps not many years after his full age; for though the first summons of a parliament (as now called, and probably so called soon after this regulation) that is now extant, or has been hitherto found, was 49th Henry III; yet the form of summons seems at that time to have been well digested and known, and to have issued upon an establishment of some standing; for the writs are not entered at large upon the rolls as originals or precedents generally are, but only notes or remembrances. But be this as it might, it must be observed, that from the time of this regulation, whenever it was, or indeed from the time of John, we hear nothing more of a representation by, or restriction of, the *commune concilium* to the king's tenants *in capite*, so that we may reasonably conclude, that all differences upon this head were satisfactorily composed by this regulation.

Henry III was succeeded by Edward I, whose reign was one of embarrassment and expense; and being refused an aid he demanded from his barons, in his twenty-third year, he foll the precedent set by the earl of Leicester in the 49th yea

father's reign, and issued writs, for two knights from each of the counties, two citizens from cities, and two burgesses from boroughs, to attend him in parliament. These writs differed in one particular from the precedent quoted, inasmuch as they were not sent to the cities and boroughs, but to the sheriffs of the counties.

This most important change introduced the representation of the people in parliament. No thanks are, however, due to Edward, who showed as much indifference for popular rights, as any of his predecessors; but the increasing opulence of the towns, the growing intelligence of the people, the alienation and division of landed property, had prepared the way for the exercise of popular power. The writ issued to the archbishop of Canterbury thus declares, after the usual salutation, the cause of summoning the parliament: "that which concerns all, should be approved by all, and common dangers should be provided against by means furnished by all." These common concerns and common dangers are then set forth to his grace, that "as he well knew, what indeed was known to all the world, that the king of France had fraudulently invaded Gascony, and held it unjustly; but not satisfied therewith, he had prepared a great fleet, and provided a numerous army to invade England, destroy the nation, and root out the English language." He and his clergy are thus commanded to come to the parliament, and "there with the rest of the prelates, nobles, and *other* inhabitants of our kingdom, to consider of, and make such laws as may be necessary to avert the threatened mischief."

The writ is inserted in the Lords' Report on the Dignity of a Peer, fol. 211. The committee affirms, what indeed had before been remarked by Prynne, that no writ either before or since, had any such introduction.

It does not, however, appear that the Commons interfered in matters of legislation: they had no power either to embarrass or delay the proceedings of the king or barons; they were called principally for the purpose of taxing themselves, and having consented to this, were held of little account.

Edward reigned thirty-two years, and from his twenty-third year held a parliament in every year excepting two only; and more than once held two distinct and separate parliaments in the same year, to which knights, citizens, and burgesses were summoned, and sat.

The longest of these parliaments did not sit quite two months, which, says Prynne, "was then reputed and styled a long time."

Notwithstanding this frequency of parliaments to which the s were summoned, there were great irregularities in the

composition of the legislative assemblies in this reign, and particularly so in the earlier part of it; the king held many common councils or parliaments, to some of which knights for shires, but neither citizens nor burgesses, appear to have been summoned. To others, knights, citizens, and burgesses, but neither prelates, earls, nor barons, were called.

The word Parliament was at first used to express a meeting of the king's ordinary council and great court of justice, and was, during this king's reign, applied to these assemblies, as well as to the legislative assembly composed of Lords and Commons.

The most important transaction in this reign, next to the calling the Commons to parliament, was the statute attributed to the 25th Edward I., intituled "A Statute concerning Tallages." It begins thus: "No tallage or aid shall be taken or levied by us or our heirs in our realm, without the good will and assent of archbishops, bishops, earls, barons, knights, burgesses, and other freemen (free commons) of our land (realm)."* The archbishop is directed to cause it to be read twice a year in all the churches, and to denounce a heavy curse on those who shall break it.

This was a great point gained, as it was unquestionably intended to bind the king not to impose taxes without the assent of the Commons in parliament assembled, and thereby to insure their convocation. How important this restraint was then considered may be inferred from the power it gave to the clergy, who it says, "shall excommunicate, and publicly in their several parish churches shall cause to be excommunicated, all those that willingly do or procure to be done any thing contrary to the tenor, force, and effect of this present charter, in any point or article."

The Lords' Committee on the Dignity of a Peer, in their remarks on this statute, observe, that "the convention of such an assembly in parliament, whenever the Crown wanted aid from the people, thenceforth became a necessary measure, and a measure to which the resort unavoidably became frequent, in consequence of the increasing necessities of the Crown for extraordinary aid, arising from various circumstances."*

Edward held his first parliament in the third year of his reign, and in this parliament was made the "Statute of Westminster, 1:" the preamble to which, contains these words: "These be the acts of king Edward, son to king Henry, made at Westminster at his first parliament general after his coronation on

* Stat. Realm, vol. i. fol. 125. † Lords Report, fol. 230.

Monday of Easter utas the third year of his reign, by his council, and by the assent of archbishops, bishops, abbots, priors, earls, barons, and all the *commonalty* of the realm being thither summoned."*

Chap. V. has these remarkable words: "And because elections ought to be free, the king commandeth upon great forfeiture, that no man, by force of arms, nor by malice, or menacing, shall disturb any, to make free election."†

From these words which probably related only to knights for the shire, it has been inferred, that citizens and burgesses sat in this parliament, but this does not appear to have been the case; great vagueness attaches to parliamentary expressions in these ages, and there is no evidence to lead us to conclude, that either citizens or burgesses were summoned to this parliament.

Of the loose and indefinite way in which words were used, the Lords' Committee have related many remarkable instances, and this want of precision has misled many learned and well-intentioned writers on parliamentary history.

Prynne seems to have taken for granted, that citizens and burgesses sat in the early parliaments called by Edward I. He says, "after the 49th Henry III, I find no writs of this sort" (writs of expenses to knights, citizens and burgesses) "extant in our records of Henry III, or Edward I, till anno 28 Edward I, though no doubt they constantly issued at the end of every parliament held after 49th Henry III, till 28th Edward I (thirty-five years space), as this clause in writs of 28th, 29th, and 33rd Edward I, *prout alias in casu consimili fieri consuevit* assures us.

Willis, however, found writs in the 18th Edward I, from which he has copied the names of the knights for several counties; but there is no writ, nor any mention of citizens or burgesses.

It cannot be affirmed positively, that citizens and burgesses were not called to parliament from the 49th Henry III to the 23rd Edward I, but there is no direct evidence that they were called. In many legal documents the commonalty are mentioned as parties, even when it is quite clear, there were neither citizens nor burgesses in parliament. If, however, it should be inferred, that the cities and boroughs did send representatives to the earlier parliaments held by Edward I, it will only add a very few years to the epoch whence may be dated the commencement of the parliamentary representation of the Commons. Previous to the twenty-third year of this king's reign, the parliaments he called were few, and held at distant and irregular periods; but from the twenty-third year of his

* Stat. Realm. Vol. i. fol. 26. † *Ibid.* 28.

reign, when cities and boroughs are ascertained to have sent representatives, the calling of parliaments was remarkably regular, and the intervals between them of short duration.

Edward II was utterly incompetent to fill the situation in which he was placed by the death of his father, and the nation could not fail to experience the consequences which constantly attend the government of weak princes, in a semi-barbarous age, in which the king is something more than the nominal head of the nation.

There was an immediate advantage to the people in the accession of this king, inasmuch as the parliament were able to compel him to swear "to hold and keep the laws and customs, which the *commonalty* of the kingdom shall establish," thus recognizing, in its fullest extent, the legal government by King, Lords, and Commons.

In the early part of his reign, the King appealed to the Commons against his refractory barons, and the barons following his example, appealed to the Commons against the King. Thus throwing a portion of power among the people, and increasing their importance, which neither the King nor the barons at all desired, but could not prevent.

During this king's disorderly reign of twenty years continuance, there are only four in which new parliaments have not been clearly ascertained to have sat, and transacted business; and it is by no means certain, that there were no parliaments in some of these four years.

Two separate parliaments were held more than once in the same year, and in one year there were three separate parliaments.

The increasing importance of the Commons was manifested in the third year of this king's reign, by the condition they made to consent to an aid on having certain grievances, eleven in number, redressed.

In this reign the Commons first petitioned as a distinct body.

"Edward III" says Prynne, "summoned no fewer than three or four parliaments in a year, whose sessions were very short, sometimes not a week, mostly not more than a fortnight or three weeks, rarely above a month or two at most, and that on extraordinary occasions."*

In this long reign of fifty years, there are only seven in which one parliament at least cannot be distinctly traced to have been held. And when we consider the arbitrary notions of this king, his foreign wars, and the pestilence which raged in his reign, it seems surprising that he should have conformed to the law

* Writs, P. iv. p. 4.

which commanded him to hold a parliament, "*every year once, and more often if need be,*" to the extent to which he did conform.

The largest parliament which had ever up to that time been held was in the fiftieth year of the reign of this king. On this, Prynne observes, that "it was the longest session (he means parliament) I have hitherto observed; yet it continued but ten weeks and four days: how many grievances it redressed, how many delinquents it censured, how many great memorable acts it made and accomplished for the benefit of the age and future generations, the parliament rolls and statutes will best inform you."*

Prynne, from the Rolls, shows, that as early as 5th Edward III, the Commons sat apart from the Lords; this it is probable was the case from the first, at which time it is also probable they were hearers and not debaters; called to consent and not to dispute. Prynne further observes, that they had then no Speaker, and that no Speaker is mentioned till 51st Edward III.

Toward the close of this reign, the importance of the House of Commons was considerably increased, and some advantages were obtained for the people out of the necessities of the King. He, it is true, was constantly breaking the laws, but he was almost as constantly compelled to make concessions, and to promise to observe them better for the future. These jarrings encouraged the Commons to proceed in the acquisition of power, the consequences of which appeared plainly enough in the next reign.

During the twenty years of the reign of Richard II there appears to have been only one year in which a new parliament was not held.

The parliament which met in the fifth year of the King sat seventy-two days. Like several preceding parliaments, its opening was adjourned from day to day. Prynne says, "The writs make particular mention, that the knights and burgesses several times resorted to, continued at, and returned from, this parliament at Westminster *(diversis vicibus)*, the reason whereof was, as the parliament roll records, because it was not only thrice adjourned from one day to another before it sate, by reason sundry sheriffs had not returned their writs, and divers of the Lords and Commons were not come, and because there arose a great quarrel between the duke of Lancaster and the earl of Northumberland, who came attended with many archers and armed men, which quarrel caused the King to adjourn the parliament sitting, from Monday to Tuesday, and thence

* Writs, P. iv, p. 307.

till Wednesday, and from Wednesday to Saturday, until the members were all come, and the quarrel pacified between these two great lords; but principally for that, after they had continued sitting from Saturday, November 8, till December 15, being thirty-seven days, the King then, by reason that the feast of Christ's Nativity approached, and the queen, his new wife, was newly arrived in England, *at the Commons' request,* who desired time to consider of the aydes demanded of them by the King, and his general pardon, which they desired, and what persons should be excepted out of it, adjourned the parliament till the Friday before St. Paul's Conversion, the 24th January, being forty dayes, during which adjournment the members returned to their homes, and many of them being absent on the 24th of January, to which day they were adjourned, thereupon *they* adjourned from Friday till Monday following, and then continued their session till February the 23rd, when the parliament dissolved; so that this last session continued thirty dayes from the day of its first meeting, and the first session thirty-seven, or rather forty-two, dayes, the short adjournments being included. So as the adjournment for forty dayes between these *two meetings, rather than sessions,* was the cause of this new insertion *(diversis vicibus)* into these writs."

"The knights, citizens, and burgesses had no writs *de expensis* for the time they sate, before this adjournment from November 3rd till December 15th, when they were adjourned till January 24th, this *recess,* or adjournment, *being at their own requests,* but only after the second meeting and parliament ended." *

The parliament, from the first day on which it met, to that when it was dissolved, was kept in existence one hundred and fourteen days; and this was, probably, the first time that parliament was prorogued, in the sense in which the word is now used to distinguish it from an adjournment; and this it was which caused the words *diversis vicibus,* which have not been found in any previous writ, to be used on this occasion.

"This," continues Prynne, "was the longest session of parliament I have hitherto observed." †

A second parliament was held in this year.

Of the parliament which met in the 11th Richard II, Prynne observes, "that this parliament SAT *the longest of any before it;* to wit, ninety-nine dayes."

Richard II was set aside, and Henry IV placed upon the throne by the two Houses of parliament, which, of their own

* Writs, part iv. page 354. † *Ibid.* page 356.

authority, changed the succession. These proceedings were the result of careful deliberation, were conducted with great solemnity, and could not fail to elevate the character of the House of Commons, which increased in respect and consequence by every change, just as the people increased their liberties by every revolt, and by such state necessities as gave any advantage to either, or both. Henry was, to a considerable extent, dependent upon the parliament, and, notwithstanding the departure from the direct line of succession caused the disastrous civil wars which followed; the advantages which resulted therefrom to the people were ample compensations for those evils.

Henry IV reigned thirteen years and a half. He held a parliament in every year of his reign, excepting only the eighth. The parliament which met in his seventh year was continued till December 22nd, in his eighth year. His next parliament met within ten months from that time; so that the interval was less than a year.

Parliaments in this reign were generally of longer duration than they had hitherto usually been, and yet the longest was terminated within ten months.

The parliament which met in the seventh year of this king was assembled on the 1st March, and dissolved on the 22nd December, in the same year. It was adjourned over Easter to the 23rd April, when it re-assembled, sat till the 19th June, when it was again PROROGUED. It met again, and sat till the day of its dissolution, on the 22nd December. This parliament was continued for nearly ten months, and was the longest parliament which had ever been held. This forms another epoch in the history of parliament, it being the first example of the prorogation of parliament by the sole will of the king.

Some anomalous proceedings in the reigns of Edward I., Edward II, and Edward III have been called prorogations, but they differ materially from the prorogations in the seventh year of this king, and cannot, indeed, be called prorogations, without giving a meaning to the word which ought not be given to it.

Henry V reigned nine years. He held a parliament in every year excepting his seventh, and in no less than four years held two parliaments in each year. All these appear to have been short parliaments; some of them were adjourned, but only for a few days.

Henry VI reigned thirty-nine years. In his reign a parliament was held in every year, excepting two only, until the sixteenth year of his reign, when the holding of parliaments

became very irregular. He was deposed from his crown and again restored. Tumults, civil wars, and the plague, desolated the country; the conduct of the opposing factions was treacherous, base, profligate, and bloody; the laws were trampled upon, and the people were barbarized. In the last twenty-four years of his reign, Henry called his parliament but seldom, and at very irregular intervals.

In this reign of horrors, prorogations, on account of the plague and the dreadful state of the country, were frequent; yet the parliaments were generally of short duration. One, which was four times prorogued, was, however, continued beyond the period of a year.

Edward IV reigned twenty-three years; from the turbulent state of the country, the holding of parliaments was very irregular, and adjournments and prorogations, as well from time to time as from place to place, were frequent. The sessions were generally very short, sitting only a small number of days. The parliament which met in the twelfth year of this king was prorogued three times, and kept in existence full seventeen months.

Edward V never reigned, except under the protectorship of his uncle, the duke of Gloucester. An entry on the Roll, in the first year of Richard III confirmed his title, and was the act of the only parliament which sat during the interval of two years and two months, from the accession of Edward V to that of the Tudors, under Henry VII.

The circumstances under which Henry VII came to the throne, enabled him to act without control. The dread of a return of the miseries which had so long endured induced the people quietly to submit to all the usurpations of the king. The principal leaders of the different factions had perished in their profitless contests; the higher nobility, who might have resisted the encroachments of the monarch, were overpowered, and the few feeble efforts made in resistance of his authority only served to establish and extend it. Meanwhile, the civil distractions of the country had accustomed the people to rapine, murder, and all the crimes which grow out of fierce wars; though a balance of good undoubtedly resulted to the following generation, by the introduction of a new nobility, who would possess neither the power nor influence of the old feudal barons.

Henry himself, on several occasions, promoted this salutary change, and especially by the statute De Donis, which extended the power of the nobility and gentry to break ancient entails and alienate their estates.

Henry ruled by a faction on whom he conferred offices, and that faction, sensible that they owed every thing to his protection, supported him at the expense of justice and national privileges; while the Star Chamber silenced every voice which might have been disposed to lift itself against the violation of individual or public rights.

Henry called a parliament early in the first year of his reign, which, having concurred in all his views, and consented to all his propositions, was dissolved at the end of about three weeks.

Notwithstanding the subserviency of this parliament, Henry would probably have never summoned another, had not his avarice suggested to him the occasional use of a parliament to obtain money, which he could not otherwise obtain, and which he managed to extort by the most false and fraudulent pretences, through their instrumentality.

He called another parliament in his second year, which sat but a short time.

In his fourth year he called another, which he kept in existence nearly thirteen months.

He also held parliaments of short duration in his seventh, eleventh, and twelfth, years; and after an interval of nearly seven years, he convoked another parliament, which being soon dissolved, he continued to govern to the end of his reign, a period of five years, without any further parliamentary invocation. It is acutely remarked by Hume, as an evidence of the despotic authority of this king, that he chose Dudley, who was so hateful to the people, as the Speaker of the House of Commons.

Henry VIII was the most absolute king who had ever reigned since parliaments were first established. Still, he never was able to obtain despotic power; and it is remarkable, that no permanent law was made even by him without the consent of the two Houses of parliament, and that it was thought advisable to resort to several expedients, in order to procure parliaments to his mind. Henry continued to play the tyrant more effectually than any of his predecessors.

Like his father, he cared but little for the laws which commanded him to call a parliament "once in each year;" the statute had no penalty for disobedience, and no provision for calling a parliament if the king neglected his duty: Henry, therefore, governed very much as he pleased, and called parliaments only for his individual purposes.

His longest parliament was kept in existence nearly five years and a half.

He governed the country by his sole will, from the 22nd December, 1515, to the 8th December, 1530, a period of fifteen years, with the intervention of one parliament only, which did not sit quite four months.

During the reign of Edward VI, who died in his non-age, two parliaments were held. The first was called soon after his accession, and was continued for nearly five years. The last sat only one month.

In the five years of Mary's reign, she called five parliaments. Her first parliament assembled in the first year of her reign, and the longest interval between any two of her parliaments was twenty-one months. It has been said, that in her reign the old law respecting holding parliaments was restored.

Parliaments during the reign of queen Elizabeth were as irregular in their convocation as in their duration; considerable intervals frequently elapsed between them.

In the forty-four years she reigned, she held ten parliaments, one of which she kept in existence nearly eight years.

She governed without parliaments at three different periods, each of which was of full four years and a half duration.

James I called a parliament before he had reigned a year, which he kept in existence nearly seven years.

In his twelfth year he called another parliament; but this not suiting his purpose, he hastily dissolved it, after it had sat three months, without a single statute having been passed.

He then contrived to carry on his government without a parliament for six years and a half, when his necessities compelled him to call another; this was held in his eighteenth year, and continued nearly twelve months. James was as little satisfied with the proceedings of this as with those of his former parliaments, and seems to have resolved never to call another; but his wants were stronger than his resolutions, and a parliament met in his twenty-first year. In the following year he died.

During this reign, the House of Commons became of much more importance than it had been at any previous period.

Charles I held a parliament in each of the three first years of his reign, the longest of which did not continue in existence twelve months. He next discontinued the use of parliaments altogether for eleven years. The parliament he then called did not sit a month. In the same year, 1640, the parliament assembled which dethroned and decapitated the King, under the Commonwealth.

The parliament continued under several forms and changes until a few months previous to the death of Oliver Cromwell,

when he dissolved it, after it had continued seventeen years and three months.

Richard Cromwell restored the old mode of election which had been departed from in his father's time, and called a parliament which sat a very short time.

Another parliament was summoned under the direction of the army, the officers of which invited the members of the long parliament, who continued sitting on the 20th April 1653, to return to the exercise and discharge of their trust. The members of this assembly were few in number, and were known by the appellation of the Rump. To this parliament Richard Cromwell sent in his renunciation of the office of Protector.

This parliament, at the end of ten months, on the 16th March 1660, dissolved itself, to prevent being dispersed by the army, after it had passed a bill to call another parliament to sit on the 25th of the following April. Most writers have considered the parliament which met in 1640, as having been continued to this time, and reckon the period of its duration at upwards of nineteen years.

A parliament, consisting of the House of Commons elected on the old plan, and such members of the House of Lords as were present and chose to take their seats, assembled on the 25th April, 1660. The first act of this parliament was the sending for Charles II, and its sitting was continued for some time after the Restoration.

The parliament which recalled Charles, being assembled without the authority of the King, took the name of a Convention; until an act was passed after the Restoration constituting it a Parliament.

On the dissolution of this parliament, Charles called another, which met in his second year, and was by him kept in existence nearly seventeen years.

He afterwards held three short parliaments, the last of which was dissolved on the 28th March, 1681, and from that period till the death of the King, which took place on the 6th February 1685, no other parliament was convoked, and the country was governed solely by the monarch's arbitrary will.

James II held two parliaments in his short reign, the last of which was sitting when he fled the country.

William III called a parliament soon after his accession, which he who came to restore the laws and to preserve the liberties of England, kept in existence six years and a half.

In his second parliament the Triennial Act was passed.

From this time our kings have considered it more to their own interest to obey the laws for the holding of parliaments than to

attempt to violate them, and parliaments have consequently been always in existence, excepting only the short periods between the dissolution of one and the election and sitting of another.

The Triennial act was annulled by the act of 1st Geo. I, when the House of Commons, which had been elected for three years, passed a bill for lengthening its own existence to seven years, and for giving to the King the power to continue all subsequent parliaments to a like period.

In the remoter times, parliaments and parliamentary councils, were usually of very short duration; and even after the time when the Commons formed an essential part of the parliament, and new subjects came to be heard and decided upon, the term for which they continued to sit was seldom more than a few weeks, frequently only a few days. The modes of electing representatives were necessarily very simple, and certainly not very regular.

We shall see, as we go along, that a session and a parliament were nearly, if not quite, synonymous words, and that in the statutes and ordinances "*a parliament*" was understood, and intended to be understood, as signifying a single meeting of the members continued from day to day, until the business for which they had been called was despatched. This is abundantly proved by the writs of expenses issued to the members for the number of days the parliament was continued, including a computation of the time required for their journeyings to and from the place of convocation.

The frequent calling of parliaments appears to have been regulated for some time by the necessity of the case, and the disposition of the King and his council. As, however, the frequent holding of parliaments became of importance, as well to the nobility as to the commonalty, they who had influence in the state were unwilling to leave the calling of parliament solely to the discretion of the King and his council, and an effort was therefore at length made to prevent the intermission of parliaments for so much as a single year; and accordingly in the third year of Edward II the King was prevailed upon to issue letters patent dated at Westminster, 16th March, A. D. 1309, in which it is recited, that he had "granted to the prelates, earls, and barons, of his kingdom, that they might choose certain persons, prelates, earls, and barons, and of others whom they might think fit to call to them during their authority, that is, to the feast of Michaelmas then next, and thence for a year following, to ordain and establish the estate of the King's household and of his kingdom, so as their ordinances should be made to the honour of

God, to the honour and profit of the church and of the King, and to the profit of the people according to right and reason, and the oath which the King had made at his coronation."

In the 5th of the King, it is among other things ordained, "cap. 19, A. D. 1311, that forasmuch as many persons are delayed in the King's court of their demands, because that the party alledgeth that, the demandant ought not to be answered without the King, and also many people be aggrieved by the King's ministers against right, in respect of which grievances no man can recover without a common parliament—*We do ordain that the King* SHALL *hold a parliament once in the year, or twice if need be*, and that in a convenient place, and in the same parliaments the pleas which are in the aforesaid forms delayed, and the pleas where the justices are of divers opinions, shall be determined. And in like manner the bills shall be finished which are delivered in parliament, in such sort as law and reason demand." *

The parliament held at York, in the 15th of this king's reign, revoked the ordinances, because they were not made by the king, the prelates, earls, and barons, and the *whole commonalty* of the realm in parliament assembled; and it was enacted, that "the matters which are to be established for the estate of our lord the king and of his heirs, and for the estate of the realm and of the people, shall be treated, accorded, and established, in parliament, by our lord the king, and by the assent of the prelates, earls, and barons, and the commonalty of the realm, according as it has been heretofore accustomed." †

Thus solemnly establishing by law, that no statute should be made, and consequently no new law of any kind, without the consent of the Commons in parliament assembled, whence it follows, that any attempt to make a law or to compel the people to contribute to the King's exigencies by his command, without the consent of parliament, was a breach of the law, for which the King or his advisers must be held responsible as well as others, or there could be nothing but the form and shadow of law, while no law and no responsibility existed in this most important particular.

The necessity for the ordinance, cap. 19, is clearly set forth by the ordainers: justice could not be obtained but by "*a common parliament*," the grievous oppressions of ministers could neither be prevented nor redressed, the terms of the Great Charter could not be complied with, notwithstanding the King's solemn oath to observe them. Like most other Kings, he paid but little regard either to oaths or charters, when he had the

* Statutes of the Realm, vol. i. fol. 165. † *Ibid.* 189.

power, as he had the inclination, to break the one, and set aside the other. It is quite clear from the ordinance, that it was the custom frequently to call the *commune concilium,* for the purposes stated in the ordinance. From the period when the *commune concilium* became a parliament composed of the three estates, these frequent meetings must have been considered the undoubted right of the people; and to compel the King to permit them to exercise this right was the object of the ordinance. The words are clear and positive, and admit of no misinterpretation: "*The King shall hold a parliament once in the year,* or twice, if need be." That it was acted upon, there can be no doubt; and notwithstanding the ordinance was abolished in the 15th year of the King, the custom was continued, and the King held a parliament in each of the succeeding years of his reign.

Edward III held two, if not three, parliaments in the first year of his reign, three in his second year, one in his third, and two in his fourth year. But parliament was, notwithstanding, apprehensive that he might break through the *custom* of calling parliaments, and they therefore enacted, by statute 4 Edward III, cap. 15, "*That a parliament shall be holden every year once, and more often, if need be.*"*

Parliament did not wait until inconvenience had been felt, and injustice had been committed, but wisely made a law to restore the enactment made in the ordinance of the preceding reign, and, as they hoped, prevent the assumption of a mischievous power by the King. Thus *a* parliament, *a whole and complete parliament,* at least once a year, became the statute law of the land, limiting the power of the King, and binding him so far as the law could bind *him* to its observance.

From the 4th Edward III, to the 36th Edward III, there are only three years in which writs for new parliaments have not been found. In many years during this period, two, and sometimes three, new parliaments were held; and it is remarkable, that two or three parliaments were held in each of those years which immediately preceded and followed those few years in which no writs for calling parliaments have been found.

Two parliaments were held in the 34th year of the King, one in the 35th, and two in the 36th: still the parliament appears to have been not quite at ease, and to have entertained doubts of the future observance of the law, which they evidently considered as one of vast importance. The King had, on some occasions, assumed a power which did not belong to him, or, as our more modern apologists for arbitrary power would say, had exercised

* Statutes of the Realm, vol. i, fol. 265.

his *prerogative* a little too arbitrarily; he had broken the Great Charter, and the oath by which he had pledged himself to support it. The parliament, therefore, not only made him re-confirm it, but also re-enacted the statute of his fourth year in these words:—"Item, for the maintenance of the said articles and statutes, and redress of divers mischiefs and grievances which daily happen, *a parliament shall be holden every year, as another time was ordained by statute.*"*

Some enemies of popular government have contended, that this statute differs considerably from the former statute, because it has not the words, "*and more often, if need be,*" and many sophistical arguments have been used, to show that these words do not imply a new parliament, but only that a parliament shall sit at some time within each year, and that the words were more intended as a sort of direction or request to the King, than as a law he was bound to observe. Such are the miserable excuses to which the friends of arbitrary power are driven.

In his 50th year the King gave his assent to a statute of pardons and graces to mark his jubilee. In this statute the Charters are again confirmed,† and of so much importance did the Commons consider the statutes of the 4th and 36th of the King, that they again requested he would confirm them, as the Rolls inform us, where, under date 50th Edw. III, Nu. 128, are the following words:—"Item 1. The Commons pray that a statute may be established in this present parliament; that *a parliament* be holden every year, that such errors and mistakes as may happen may be corrected. 2. That the Knights for counties for *these parliaments* be elected by the common election of *des meillours gentz des dit Countees*, and certified by the Sheriffs. 3. And that *in the same manner* the Sheriffs for the counties be *from year to year elected.*"

To this petition the King replied seriatim; to the 1st demand he said—"With respect to a parliament every year, statutes and ordinances have been made, let them be duly observed and kept." To the 2nd, "As to the election of knights, the King wills that they should be elected by the common assent of the whole county." And to the 3rd, That there is a bill respecting Sheriffs."*

It is impossible to misunderstand those words, or to believe that any thing but annually elected parliaments was meant by both the House of Commons and the King. It is impossible that the words, "*a parliament*" in the first request, and "*same*

* Statutes of the Realm, vol. i, fol. 374. † *Ibid.* vol. i, fol. 396.
* Rol. vol. ii. fol. 354.

manner," in the third request, could have been used in any other sense.

The King, in his 13th year, demanded an extraordinary aid, to the granting of which, the Commons demurred, and said they dared not give their consent until they had consulted and advised with their counties, and therefore they desired *another parliament* to be summoned at a future day, and they *prayed that writs should be sent to every sheriff,* that two of the most esteemed knights of counties should be elected and sent to the next parliament. The parliament was dissolved, and a new one summoned, as requested.

Had it been lawful, or even at this time customary, for the King to prorogue the parliament, it would doubtless have been done on this occasion. The King would have prorogued it to allow time, and afford opportunity for the representatives of the people to return home, and receive instructions from their constituents: and his not having done so, is conclusive against those who have since maintained, that the statutes of the 4th and 36th of the King did not contemplate a new parliament. If even more conclusive evidence were wanted, we have it, as the King by the mouth of the chancellor, declared, that he had summoned a *new parliament in conformity to the law of the land.*

No doubt can remain that the King, the Lords, and the Commons, understood the statutes commanding the King to call a parliament every year, to mean, a *new* parliament. The Commons did not request a prorogation, but a dissolution; and thus we see that the very men who may be said to have made the statute, understood its meaning to be a *whole* "parliament, every year once, and more often, if need be." The "*need*" was here shown, and a second parliament was called. Had the Lords who concurred in making the statute, and the members of the House of Commons who proposed it, understood it in any other sense than that which is indeed obvious, a prorogation, as the least inconvenient, as well as the shortest way to satisfy the King's most urgent necessities, would have been recommended by the Commons, and resorted to by the King.

In the parliament held in the first year of Richard II, the Commons made the following demand:—

"Inasmuch as many people are delayed in their demands in the King's Court because the parties allege they ought not to answer without the King's consent, and also inasmuch as many people are aggrieved by the King's ministers against right, of which grievances no redress can be had but in a common parliament. May it please your Majesty to *hold a parliament, once in the year at the least,* and in a convenient place, and in those par-

liaments the pleas which have been so delayed, as well as those on which the justices are of different opinions, shall be recorded and terminated, and in the same manner the bills delivered in parliament shall be determined as heretofore, as reason and law require."

To this the King replied :—

"As to that a parliament shall be holden every year, let the statutes which have been made be kept and observed, but as to the place where the parliament shall be held, the King will use his pleasure. And as to the pleas in which the justices may be of divers opinions, there are statutes which the King commands shall be kept and strictly observed."*

The course followed in this parliament was the same as had been observed in the preceding reigns, of causing the King to confirm the charters; but the Commons had, besides the Great Charter and the charter of the forests, the two statutes of the 4th and 36th of the late king, which to them were scarcely, if at all, of less importance than the charters, and they, as the representatives of one of the estates of the realm, demanded that these statutes should also be confirmed, and this was done by the King's answer to the Commons' petition: but the parliament did not stop here; for in the first parliament, held soon after the King's accession to the throne, he declares that, "to nourish peace, unity, and concord within our realm of England, which we so much desire by the whole assent of the prelates, dukes, earls, and barons, of this our realm, at the instance and special request of the Commons of our realm, &c.—First, it is agreed and established, that the church shall have her rights, and that the Great Charter, which, at the request of the said Commons, was read in parliament, and also the charter of the forests, and *all other good statutes* and provisions made in the time of the progenitors of our lord the King that now is, and not repealed, shall be observed and firmly kept in all points."†

The parliament held in his second year was opened with great pomp and ceremony, the reasons for calling it were declared by the bishop of St. David's, who was also chancellor of England, to be, 1st, for the honour and reverence of God and the church —the preservation of liberties, franchises, laws and customs, and that justice might be done to all, as well to the poor as the rich, as the King had sworn to do at his coronation; and 2nd, "Forasmuch as at other times, at the request of the Lords and Commons, it was ordained and assented, that a parliament should be held every year: our lord the King which now

* Rot. Parl. vol. iii, fol. 23. † Rot. Parl. vol. iii, fol. 32.

is, desirous to observe and keep every good convenant and to execute every ordinance made in parliament, has caused the present parliament to be summoned."*

The first time a prorogation of the parliament actually took place, was in the fifth year of Richard II. Fifty-two years from the time when the statute 4th Edward III was passed, and seventy-one years from the date of the ordinance in the fifth of Edward II. But even this was not a prorogation in the sense now attached to the word; it was not the act of the King alone, but at the request of the Commons. A prorogation by the sole authority of the King, and by his will alone, did not occur until the 7th Henry IV, seventy-nine years from the date of the statute 4th Edward III.

It was not until the twenty-third year of Henry VI that any parliament was kept in existence for so long a period as a year. In this year, 1444, a parliament was called, which continued nearly fourteen months, so that from the first meeting of the Commons in parliament, if we reckon from the 49th Henry III, a period of one hundred and forty-two years will have elapsed, and if we reckon from the 23rd Edward I, when the Commons became permanently one of the three estates of the kingdom, a period of one hundred and eleven years will have elapsed without a single instance of a parliament having been kept in existence for a year.

What, then, becomes of the assertion of Blackstone, and the host of sycophants and modern Whigs, that the statutes 4th Edward III, and 36th Edward III, were not intended to mean annually new parliaments; that the King might, by what they call his prerogative, keep one and the same parliament in existence during his whole reign, and that our kings did not, as they needed not, observe those statutes? Who that is acquainted with our history, and reflects on the turbulent state of the kingdom, the civil wars, and the barbarism of the people, does not at once perceive the singular efficacy of these important laws in the conduct of our kings, who, amidst all their attempts to become absolute, had yet been obliged to conform to them with so few deviations, as have been shown to have occurred? and the facts are the more remarkable, since no means could legally be resorted to for the assembling of parliaments, or for ending them, if the King thought himself powerful enough to go on without them, or daring enough to keep them in existence as long as he pleased—a power usurped as soon as circumstances permitted, but which, so far from being legal, or justifiable by

* Rot. Parl. vol. iii, fol. 32.

the pretensions afterwards made of prerogative, and to the present hour maintained as a part of the prerogative by both Whigs and Tories, was an illegal, unjust usurpation; contrary to the oath the king took to observe and keep the laws, and clearly an offence which deserved punishment, notwithstanding the situation of the parties made it too difficult and too dangerous to attempt its infliction on the offenders.

The law remained in force, but the Tudors, from peculiar circumstances, were enabled to disregard it; and this they did openly, and without apology, setting up tyranny and misrule under the name of prerogative. They held parliaments just as they pleased, or circumstances compelled them; and they kept them in existence as long as they pleased. They ruled without parliaments as often, and for as long a period, as possible. No parliament was called by any of them, except, perhaps, by Mary, when it was at all possible to go on without one; unless, indeed, to procure its sanction to some act of atrocity, or to obtain money.

Henry VIII, absolute as he was, could not succeed even with his disgracefully subservient parliaments, in setting them aside; and the regents, in the short reign of his son, found it necessary to influence and corrupt the House of Commons, as did also Mary and Elizabeth. In these reigns, commands as to the choosing certain descriptions of persons were openly resorted to, and, in many cases, individuals were named to the returning officer as the persons they were to cause to be sent to the parliament.

More than a hundred new members were added to the House of Commons by the authority of Edward, Mary, and Elizabeth: and as these were nearly all returned from poor and needy places, under the influence of the court, or of persons attached to the court, about a fourth part of the House were placed under the control, and at the command of the Crown.

When to these are added the placemen, and other tools of power, who sat in the House, and when we find that, notwithstanding this influence, and the absolute power which the Crown, in very many particulars, possessed, we cannot but admire the pertinacity with which the well-informed part of the people adhered to a representative form of government. With a House of Commons thus composed, with a small number of peers, as subservient as the Crown could wish, it might have been predicted, with something like certainty, that an absolute monarchy would be established, and transmitted to succeeding ages.

Many surprising events had, however, occurred, or been

sometime in progress, which happily counteracted, and finally frustrated such intentions. Among these were, the Reformation, which changed the people's habits of thinking; the invention of gunpowder, which changed the art of war; the discovery of the East and West Indies, and of the continent of America, which changed the relative condition of the European nations, and enlarged the notions of the people. Above all, the art of Printing came happily to save the world from ignorance and slavery, and to exalt mankind to a height which it was utterly impossible could have been previously, with any certainty, predicted of this invaluable discovery.

The circumstances under which Elizabeth came to the throne gave her many advantages over the people, which she failed not to endeavour to improve. She would not permit the discussion in parliament of any measures she disliked; she cautioned and commanded the members of the House of Commons not to incur her displeasure by interfering in matters which she said were above their capacity; she endeavoured to confine liberty of speech in the House to Aye and No, which, she said, comprehended their privilege; and she seized and sent to prison such refractory members as, by propositions and speeches, broke her commands. She bullied the House, denounced vengeance against the members, and exerted her authority to the utmost extent her discretion permitted; but after a while, she lost, and the Commons as constantly gained, power, in the political struggles which took place.

The new impulse which then, as again of late years, was felt by the people, could not and cannot fail to improve their habits, and ultimately to increase their moral and political influence, against which ignorance and violence cannot prevail.

In this reign, the nation made rapid advances in wealth and civilization; many great men were trained, knowledge was more widely spread, and a new era commenced.

James I was too ill an observer to mark the changes. He came to the throne with prejudices which were antiquated, and with pretensions which could be no longer tolerated.

The great and good men who had been reared in the reign of Elizabeth, looked forward to a change of measures at her death, and were not prepared to permit the rights and liberties of the people to be extirpated by a stranger. James, on the contrary, was resolved that all power should centre in the Crown, that the people should possess neither rights nor liberties, but that every one should submit to be governed by his imperial will. He told the parliament that he was an absolute king; and

the House of Commons, "that he would not hold his prerogative or honour, or receive any thing of any, or all, his subjects."*

He said, "kings were exempt from any censure or correction on earth, and admonished them (the Commons) to beware that they were not like Icarus, the son of Dædalus that soared so near the sun, that the wax melted, and his wings failed, and down he fell."† He insulted the Commons on every occasion, except at the moment he expected to have money voted: he taunted and threatened them. "I pray you," said he, "do not too far move me to do that which my power may tempt me unto."‡ He forbad the Commons debating on matters of government, and said, "The power of kings resemble the power Divine; for as God can create and destroy, make and unmake, so kings can give life and death, judge all, and be judged of none."

James acted up to his notions as far as he possibly could: but as he could neither frighten the Commons by his conduct towards them, nor extort the money he wanted, he resolved to govern the nation by his own will, without parliaments; but his improvidence compelled him to resort to them. Happily the great men whom he could not prevent being returned to the House of Commons, were as little disposed to surrender their liberties, as he was determined to abolish them; and, accordingly, when, after an interval of six years, he called a parliament in his eighteenth year, the Commons went at once upon grievances, and "sir Edward Coke said, the privileges of the House concern the whole kingdom—like a circle—to take heed we lose not our liberty by petitioning for leave to treat of grievances. No proclamation was of force against an act of parliament. In the time of Edward III, a parliament to be holden every year, that the people may complain of grievances, 34th Edward III, the like. If proclamation against it, the law to be obeyed, and not the proclamation."§

The King had set aside the law on all occasions when it stood in his way. He had seized several members of the former House of Commons, and sent them to different prisons; but, notwithstanding his rigorous proceedings, he continually lost ground in the contest.

At length, on the 31st of May, 1621, he was bearded by the

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* Commons Journal, vol. i. fol. 168.
† *Ibid.* vol. i. fol. 314.
‡ Commons Journal, vol. i. fol. 368.
§ *Ibid.* vol. i. fol. 510.

proposition of sir Edward Coke, for "A Petition of Right to suppress Grievances, and to second this by bill."*

This may properly enough be called the first important attempt in parliament to procure reform. The object of the reformers was, a restoration of the old law of parliament, which, had it been obtained, would have been a most important melioration. The King, however, put an end to the project at this time, by proroguing the parliament; which, strange as it may appear, acted as meanly at the close of the session, as it had before acted manfully. This was, no doubt, in a great measure owing to the creatures of the King and the courtiers, by whose influence so large a number of members were now placed in the House.

When the parliament again met, the members in the Commons House resumed their courage, and proceeded to canvas the conduct of the King, which they claimed to do as a right. The King rebuked them for daring to "meddle with matters far above their reach and capacity."† He had committed an eminent member, sir Edward Sands, to prison, and this was a circumstance, amongst others, complained of by the Commons. The King, in a letter to the Speaker, denied that he put sir Edward Sands in prison for any thing done in parliament; but, lest this denial should be taken as a concession, he went on to say, "But to put you out of doubt of any question of the nature that may arise amongst you hereafter, you shall resolve them in our name, that we think ourself very free and able to punish any man's misdemeanours in parliament, as well during their sitting as after, which we mean not to spare hereafter upon any occasion of any man's insolent behaviour there." "The Commons protested against the conduct of the King, and claimed their rights and liberties as their inheritance; they explained what these rights and liberties were, and denied that any could be legally molested by the King for any thing said or done in parliament."‡

As the King could neither intimidate nor silence the members, he dissolved the parliament by proclamation, in which he abused the members of the House of Commons, and forbade any one to speak on state affairs. He had torn the protestation out of the Journals, and he now seized sir Edward Coke, sir R. Phillips, John Selden, Pym, and Mallory; and, by way of punishment, commanded sir Dudley Digges, sir Thomas Crew and others to depart the kingdom, and remain in Ireland.

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* Commons Journal, vol. i. fol. 632.

† Parliamentary History, vol. i. p. 1327. ‡ Rushworth, vol. i. p. 53.

The introduction of members in large numbers, by the corrupt influence of the Crown, gave rise, in this reign, to the factions which, under several appellations, have been known as parties in the state; and have been perhaps the principal impediment in the way of wholesome reform; each party, when in favour, pursuing the same object, and nearly by the same means.

By the disfranchising statute, 8 Henry VI, a considerable number of freeholders were deprived of their right to vote for knights of the shire; and this evil was greatly increased by the creation of new boroughs, and re-admitting old boroughs to send members to the House of Commons. Prynne lamented the long continuation, and the frequent omission of parliaments, and ascribed to these circumstances, and to the new boroughs, all the evils brought upon the country by the non-observance of the law respecting the frequent calling and sitting of parliament; and that, previous to these matters being introduced, there were no double returns, or questioning of returns, as of late has been the case, since these "late poor petty boroughs erected or revived after long discontinuance." Of these places, twenty-four were summoned under the regency of Edward VI, fourteen by Mary, thirty-two by Elizabeth, and fourteen by James I, in all eighty-four places, which returned one hundred and fifty-six members out of four hundred and fifty-four, the number of which the House consisted at the death of James I.

The members returned in the way mentioned were necessarily tools of the court, essentially corrupt and mischievous. The evil consequences present and prospective of such a body, together with the avowed determination of the King to control the House of Commons, and bring it under complete subjection to his will, and thus render it the means of his exaltation and its own destruction, must have furnished powerful motives to sir Edward Coke and his coadjutors to attempt the restoration of the old laws; and to their exertions belongs the credit in the next reign of the attempt then made to produce a free and equal representation of the people.

Charles I used little ceremony towards his early parliaments; neither he nor his advisers understood, nor were capable of understanding, the change which was going on in the reasonings and circumstances of mankind; he therefore proceeded on notions, and resorted to measures, which little suited the character of the times. He gave the parliament to understand, that he considered the meeting of the Houses not only useless, but, except for the purpose of extorting money from the people to support his extravagance and mis-rule, absolutely pernicious.

The modes he adopted to disqualify, corrupt, and intimidate the members of the House of Commons, were various and ingenious. He told them of the vast difference there was between a high and mighty king, and a poor and lowly subject; he threatened them, and committed violence on many of them. He desired the House "to remember that parliaments are altogether in my power for their calling, sitting, and dissolution, and therefore as I find the fruits of them good or evil, they are to continue or not to be." This declaration accorded perfectly with the King's notion of divine right, since softened down in the word "*prerogative;*" it was quite consistent with the doctrine of the courtly preachers, Sibthorpe and Mainwaring.

In a sermon preached by Dr. Sibthorpe, he said, "that if princes command any thing which subjects may not perform, because it is against the laws of God or of nature, or impossible, yet subjects are bound to undergo the punishment, without either resisting, or railing, or reviling, and to yield a passive obedience where they cannot exhibit an active one. I know no other case but one of those three wherein a subject may excuse himself with passive obedience, but in all others he is bound to active obedience."

Dr. Mainwaring, in two sermons preached before the King and court at Whitehall, said, "The King is not bound to observe the laws of the realm concerning the subject's rights and liberties, but that his royal will and command in imposing loans and taxes, without common consent in parliament, doth oblige the subject's conscience, on pain of damnation."

But the time had gone by when such doctrines could produce their full effect; and notwithstanding they were promulgated with uncommon assiduity, and enforced in every possible way, the King could not accomplish the end at which he aimed.

With all his power and influence, aided as he was by the court and the clergy, he was unable to cause men in sufficient numbers to be returned to the House of Commons to constitute a majority. Corrupt as the House to a considerable extent then was, the means of corruption were small when compared with modern times, and the management of elections and of the House of Commons was not understood as they have since been, and still continue to be. Men were returned to parliament, who could neither be intimidated into submission, nor diverted from their purposes. The Petition of Right, so called because nothing new was demanded, contained simply a declaration of old laws and customs, to which, as had been usual in other reigns, the king's assent and promise to observe them was required, was again introduced and entertained.

The King had got himself on the horns of a dilemma, and could have the subsidy which was essential to him on no other terms than by giving his assent to the Petition of Right. He, however, did all he could to prevent its being passed, and when foiled in this, and compelled to receive it, he gave a general and inconclusive answer, instead of the usual assent to bills. But the excellent men who at this time took the lead in the House of Commons, and were well supported by a majority of that House, insisted on an answer in the usual form, which, after an unsuccessful struggle, he was forced to give. This was the first and most important step towards reform. The parliament continued resolutely to pursue its honest course; the King became outrageous, seized some of the members, insulted the House, dissolved the parliament, and resolved never to call another.

"Upon the dissolution of this parliament, the people," says Rushworth, "were highly discontented, and uttered unpleasing speeches and discourses, that if a parliament was not presently called again, all things would be unsettled and out of order, and trading would fail, and contests would arise about tonnage and poundage, &c."

Whereupon "the King issued a proclamation against false rumours of parliament," in which, among other unwarrantable and offensive things, he says, "he has shown, by his frequent meeting with his people, his love to the use of parliaments; yet the late abuse having driven his majesty unwillingly out of that course, he shall account it *presumption for any one to prescribe any time to his majesty for parliaments, the calling, continuing, and dissolving, of which is always in the king's own power.*"

The parliament was dissolved on the preceding 10th of March, 1629, and during the next *eleven* years, Charles governed as he pleased, without a parliament. At length, in the sixteenth year of his reign, his resources being exhausted, his extortions failing to produce the money necessary for his mis-rule, he was compelled to call a parliament, which met on the 16th of April, 1640. As soon as it was fairly constituted, it proceeded to discuss grievances. These were comprised under three general heads, viz.,

1. Against the Liberty of Parliaments. 2. Against Preservation of Religion. 3. Against Conservation of Common Liberties.

These heads were again subdivided. One of the subdivisions related to the conduct of the King, in seizing the papers and persons of several eminent and popular members at the close of the last parliament. Another related to the privileges of par-

liament; and the last was worded thus: "that which relates unto all, and is a *great cause of all the former* (named) *grievances, the not holding of Parliaments every year, according to the laws and statutes of the realm.*"*

These heads were all examined by the House, and no doubt need be entertained, that the utmost influence of the King was resorted to, to prevent their being persevered in. The disposition of the King to commit violence was well known; the opposition to the proceedings of the friends of rational government was formidable; and the apprehension of extensive mischief to the people was necessarily so great, that the House thought it prudent to postpone the consideration of the last resolution.

A conference was held with the Lords in the presence of the King, who demanded from them an immediate supply of money, giving them to understand that *he had no leisure to redress grievances.*

The Commons, instead of voting money at the command of the King, went again upon grievances. They were unwilling to furnish him with means still more extensively to set aside the laws and oppress the people, and they therefore proceeded with what appeared most likely, in the untoward circumstances in which they were placed, to effect their purpose. A bill was brought in, and referred to a committee of privileges to produce some fit bill for *reformation of the abuses in the election of knights, citizens, and burgesses.*"† The King persisted in his demand for money without conditions; the Commons were resolved not to grant it without redress of grievances, and the King being resolutely bent on establishing his authority, hastily dissolved the parliament, before it had sat a month. No sooner was this done, than the King caused the houses of several members to be rifled, and their persons to be seized and sent to gaol.

Dr. Nalson meanly and weakly attempts to justify the King: he says, "he dissolved the parliament in consequence of their aversion to the matter of supply,‡ which his insuperable necessities made him require, and their non-compliance occasioned him to resort to other means."§ These insuperable necessities were occasioned by his attempt to govern without parliaments, and might even now have been satisfied promptly, and himself have become popular, had he possessed the least desire to refrain from his attempt to become absolute, and shown the smallest

* Commons Journal, vol. [illegible] p. 16.
‡ Nalson's Collections.

disposition to observe the laws, and preserve the independence of the House of Commons. The means he took failed to produce him the money he needed, and compelled him to call a parliament, which met on the 3rd of the following month of November.

The Star Chamber and High Commission Court, two engines of tyranny, oppression, and extortion, now came under the cognizance of parliament; a committee was appointed by the House of Commons, to inquire into the abuses committed by them, the immediate consequence of which was, the release of those who had been sentenced to cruel punishments, and were confined in distant gaols. They were set at liberty. On the 24th of the same month, "a bill was read the first time for the *yearly* holding of parliaments; it was read a second time on the 30th, and committed to a large select committee."*

It must be concluded, that circumstances made it necessary for the committee to compromise, and consent to demand less than by the statutes 4 and 36 Edward III, they might have insisted upon without any new act of parliament. So, however, it was, that on the bill being reported from the committee on the 19th January, 1640-1, it bore the title of "An Act for preventing Inconvenience happening by the long Intermission of Parliaments.† The bill was altered in the Lords, conferences were held between the Houses, and after some disputing, it passed the Lords on the 12th February. It was accompanied by a bill granting a subsidy, and the King's urgent necessities induced him to give his assent to both bills at the same time. This was the first Triennial Act, so called in consequence of the power it gave the King to discontinue the holding of a parliament for nearly three years, which before the passing of this act he could not legally do. It had this particular difference from the former statutes, that it provided for the calling and holding a parliament without the consent of the King, if he for three continuous years neglected to call one: whereas the former statutes merely commanded the King to call a parliament, but had no provisions for assembling the Houses if he omitted to assemble them, and no means short of civil war to compel him to observe them.

The preamble declares, that "Whereas by the laws and statutes of this realm,‡ the parliament ought to be holden at least once every year for the redress of grievances." "And whereas it is by experience found, that the not holding parlia-

* Commons Journal, vol. ii. p. 58, 60. † *Ibid.* vol. ii. p. 70.
‡ Statutes of the Realm, vol. v. p. 54.

ments accordingly hath produced sundry and great mischiefs and inconveniences to the King's Majesty, the Church, and Commonwealth, for the prevention of like mischiefs and inconveniences in time to come,

"Be it enacted, &c. that the said laws and statutes be from henceforth duly kept and observed."

It is then enacted, that if for three years the King shall not call a parliament, it may then be called without his consent in the manner enacted; and it further provides, that "no parliament shall be dissolved or prorogued within fifty days at the least, from the time appointed for the meeting thereof, without its own consent."

It is remarkable, that notwithstanding the enactment, enforcing the old statutes, which commanded a parliament to be held every year, the King, by the subsequent enactment, was empowered to continue the parliament for three years, which seems to have been thought an equivalent for the clauses commanding the King to call a parliament within three years, under the penalty of having one held without his summons. How grateful this act was to the people, may be collected from the conduct of both Houses, and the rejoicings of the people. The streets, we are told, were in a blaze with bonfires; the bells were rung, and the Peers declared to the Commons that they were so full of joy, that they challenged the Commons to go with them to the King to express their feelings, which was done.

It was supposed that a more regular and better administered government would follow the passing of this act, and was, under the circumstances in which the nation was placed, reasonable matter for exultation.

Many eminent men were, however, dissatisfied that the King should have the legal power of dispensing with annually-elected parliaments; and this dissatisfaction was not confined to the popular leaders and other friends of the people. David Jenkins, a Welsh judge, a learned man, a staunch supporter of the King, an undaunted royalist, and a remarkably courageous man, whom no punishment could subdue, maintained, that the King could not neglect to hold a *new parliament once every year.* While in prison and in expectation of being executed as a traitor to the parliament, he continued to deprecate the new law, and predicted, that "such long continuance of parliaments will, instead of a remedy, which is, and ought to be, the true end of parliaments, become an insufferable grievance and oppression to all the people of the land."*

* Jenkins, in Somers's Collection, vol. v. p. 125.

The first earl of Chatham, in a letter to his nephew, speaks of the permission this act gave to the King, either to continue a parliament for three years, or to call it at so late a period within three years, as to make it altogether useless, as a dangerous innovation; and quotes May, who was secretary to the parliament, in whose "honest history" are these words: "kings in such limited monarchies as England do, in time, and by degrees, gain upon the people's rights and privileges, so that those things which, by the constitution of the government, the people may challenge as due from the prince, having been long forborne, become at last to be esteemed such acts of extraordinary grace, as that the prince is highly thanked for granting them." *

It never once occurred to any of these eminent men, that the King's *prerogative* justified him in continuing a parliament beyond the period of a year, much less throughout his whole reign, as has by many, but more particularly of late years, been pretended by the partisans of the whigs.

The members of both Houses, apprehensive that the King would dissolve the parliament, and notwithstanding the late act, never call another, passed a bill to prevent the King dissolving or proroguing the parliament without the consent of both Houses. This act has met with much reprobation as well from whigs as tories, and *constitutional* lawyers; and yet it is almost certain that it was the means of preventing the establishment of despotic authority in the King.

The King finding the power he had assumed encroached upon, made a violent effort to recover it. He caused articles to be exhibited in the House of Peers against one of its members, and against five Commoners, whom he accused of high treason. This done, the sergeant at arms was sent to the House of Commons to demand the five members, and the House refusing to deliver them, the King went in person with an armed force to seize them: taking the Speaker's chair, he commanded them to be given up; but as they had retired as he entered, he was obliged to depart without them.

The articles against the members were, in fact, a declaration of treasons against both Houses of Parliament, but more especially against the House of Commons. The King's coming with armed men to the House to seize the members, was little less than levying war upon the parliament. Precautions were taken to prevent further mischief, and the King, finding his design frustrated, left London, and proceeded to Hull, in the garrison of which he expected to find the means in arms and

* May's History of the Parliament, Ed. 1812, p. 67.

stores, to subdue the parliament by force. Here he was denied admission; but he had so far committed himself, that even this disappointment did not deter him from commencing the civil war which desolated the land, and cost him his life.

The civil war prevented the Triennial Act coming into use, and placed the parliament in circumstances which necessarily operated to their prejudice. It was not possible to call a new parliament so long as the war continued; and when it was put an end to, and the King became a hostage, or rather a prisoner with the army, those who had conducted the war against him, could not with safety either to themselves or to the liberty and peace of the nation, dissolve the parliament, and call upon the people to elect another in its place.

That the leading members, and probably a considerable majority of the House, were desirous that the people should be fairly represented in a House of Commons chosen by themselves, and for a short period, cannot well be doubted by any man capable of appreciating the character and conduct of the men who at this period took the lead in the House of Commons. Their situation was peculiarly arduous, and they probably acted with as much wisdom as any body of men so circumstanced could have acted.

The war having been brought to a close, the parliament, alarmed at the symptoms of insubordination manifested by the army, as well as at the heavy expense it occasioned, proposed to disband several regiments: this proposal brought the matter to a crisis, and on the 11th of June, 1647, a letter was received by the lord mayor of London from Fairfax, the general-in-chief, signed by himself, Cromwell, and eleven other principal officers, justifying the conduct of the soldiers, and declaring that "the army desired a settlement of the peace of the kingdom, and of the liberties of the subject, according to the votes and declarations of the parliament." They affirm that they "speak the sentiments of the people, who are full of the sense of ruin and misery, if the army should be disbanded before the peace of the kingdom and these other things before-mentioned have a full and perfect settlement."

The parliament and the army were thus at issue, and it was clear that unless the army gave way, the parliament would, at no distant period, be compelled to submit to its domination.

The House of Commons took such measures as appeared most likely to weaken the power of the army, and several votes were passed to encourage the soldiers to disband themselves. These votes gave great offence to the army, and produced a de-

claration or representation from Fairfax, in the name and on the behalf of the army. It was presented to the House of Commons on the 14th of June. It is very long, very argumentative; it recommends an extensive reform, and professes the willingness of the soldiers to disband, so soon as the parliament shall have settled the peace of the nation, and secured the rights and liberties of the people. The main propositions were,

First. That the Houses of parliament may be speedily purged of such members as for delinquency, corruption, abuse of the state, or undue elections, ought not to sit.

Second. That those who have misused the army, and against whom they are ready to give in charges by name, may be disabled from doing the like, or worse.

Third. That the authority of this kingdom in *parliaments freely, equally,* and *successively chosen,* according to its original intention, may ever stand and have its course—so that the foundations of order and government may not be overthrown, or power engrossed in the hands of any particular person or party whatsoever. They express their apprehension that neither purging the present parliament, nor calling a new one, may, under present circumstances, promote the ends of good government; they contrast this with the danger of men possessing unlimited power during life or pleasure, and reason most admirably respecting the choice of evils which circumstances had made inevitable; and they observe, that should a new parliament be called, and the people make a bad choice of the men to represent them, they will still have opportunity to amend it, since by many positive laws and ancient custom, the people have a right to new and successive elections at certain periods of time, which is so fundamental and essential to their freedom, that it ought not and cannot be denied to them, or withholden from them, and without which the House of Commons is of very little concern to the Commons of England.

Fourthly. A determinate period to this and to all future parliaments: and when these things, and whatever else may be necessary for securing the rights and liberties of the people, shall have received the royal assent, his majesty and his posterity may be settled in all things as far as may consist with the rights and freedom of the subject.

London, Southwark, and several other places, petitioned for a restoration of the old statutes for annual parliaments, liberty of conscience, and equal laws, and such was the desire of a very large portion of the nation for a settlement of the government on principles highly favourable to the liberties of the people, that it must at no long period have taken place, had not the

royalists again commenced the civil war, and for a time postponed all chance of any arrangement of these important matters.

This attempt to establish the King with unlimited authority was soon suppressed by the bravery and vigilance of the parliamentary army, which, as well as a considerable portion of the people, and of the parliament, was now fully convinced that no arrangement could be made with the King, which did not compromise the liberties of the subject, and place the property and person of every man in the nation at his disposal.

The situation of the parliament was now one of unexampled difficulty, the circumstances of the country were wholly changed, and on the 18th November, 1648, the council of officers of the army presented a remonstrance to parliament, humbly but earnestly intreating a present reading. They requested that the King should be brought to justice, and his family excluded from the throne.

That the leaders in the late war should also be brought to justice, and this being done, a reasonable certain term to be put to the sitting of the parliament. Future parliaments to be annual or biennial—certain as to meeting—equal distribution of elections—supreme power in the people by their representatives in the Commons house—no king except on trust by the Commons house.

This general settlement to be established by a general contract or agreement of the people with their signatures thereto. But, as nothing could be effected in the House of Commons, the army marched to London, and on the 6th December, 1648, colonel Pride proceeded to exclude such members as were obnoxious; these amounted to about a hundred, nearly all of whom were, however, again permitted to take their seats. This was called "Pride's purge."

A new proposition, which it was thought might be the means of obviating most of the difficulties that stood in the way of the parliament, was now made by the army, and seems to have had the countenance of a large portion of the people. By this the present parliament was to be dissolved on the 30th of April following, and a new one elected by all males who had attained the age of twenty-one years, had subscribed the agreement of the people, and were assessed to the poor-rates. The first parliament was to be continued for seven years.

Had the King, even at this time, been disposed to act justly towards the nation, an arrangement might have been made, from which the most happy consequences might have resulted; but the King was obdurate, and, like his friends, inimical to the

general good of the people; their perverse conduct prevented any settlement being made. On the 30th of January 1648-9, the King was beheaded. Soon after this event, the House of Lords, having been voted useless, was abolished.

The parliament, which now consisted solely of the Commons, turned its attention towards the settlement of the government, without a King or House of Peers, and the state of the representation became a subject of great solicitude. On the 1st of May, 1649, it was ordered, "that this House do take into consideration the business touching *due election* and *equal representation* on Friday next, and that nothing do intervene."

A large committee, consisting of the most eminent men in the House, was appointed: this committee met many times, but the war which broke out in Scotland, and was revived in Ireland, the opposition of the gloomy and intolerant Presbyterians, and the covert proceedings of the royalists, were obstacles it was not in the power of the parliament to remove. Thus embarrassed, it was not till the 9th of January, 1649-50, that the committee, through sir Henry Vane, jun., made their report. It consisted of four heads: viz.

1. An equal division of the kingdom, for the purpose of electing four hundred members, who were to form the legislative body.
2. Confirmation of the right of equal election in the people for ever.
3. Manner of elections and qualifications of electors.
4. Abolition of all customs and qualifications not contained in the present proposition for equal representation.

The duration of parliament was left blank, to be filled up by the House.

The members of the present parliament to sit in the next parliament, and the vacancies only to be filled up.

The men who conducted the affairs of state were intent on serving their country, but they were critically circumstanced, and could not, without throwing the nation into the utmost confusion, and the almost certain destruction of themselves and of those who had adhered to them, put the reform they meditated in practice.

In order to gain time and make its intentions fully known, the House resolved itself into a grand committee on these matters, and sat from time to time, frequently once a week, watching circumstances, yet not daring to carry their project of equal representation into effect. The sittings of the House in committee were, with some intermission [illegible] to the 20th of April, 1653, when the time having [illegible] on the

House thought they might, with a reasonable chance of safety to themselves and their partizans, call upon the people to adopt the plan they had with so much care and patience prepared, and at the moment when they were about to pass the bill for their own dissolution and the calling of a new parliament, Cromwell, who had resolved, with the assistance of his council of officers, to assume the office of king, forcibly ejected the members, and put an end to the parliament.

Cromwell and his council of officers now nominated certain persons, who met as a parliament. From this assembly he expected the most abject submission to his will. In this he was however disappointed. It was impossible to select a body of men, among whom there would not be many who loved their country, and were ardently desirous that good government should be established. Cromwell's creatures in this parliament were soon found to be a minority, which, unable to accomplish the purposes he designed, abruptly, and in the name of the whole, broke up the assembly, and resigned their power into the hands from which they received it.

Cromwell was now, by the council of officers, appointed Lord Protector, and a new scheme of government was proposed, it was to consist of one person and a house elected by the people.

Cromwell saw how impossible it was for him to maintain himself in power without the support of a popular assembly, and he vainly persuaded himself that such an assembly would grant him the power he was now resolved to possess by plausible means, if possible, but by any other, if these failed him. By this scheme of government, parliaments were to be triennial. The elective franchise was to be pretty equally diffused. Elections were all to be made on the same day, but the qualification of an elector was restricted to two hundred pounds in real or personal estate. Certain disqualifications were to take place, and limits were set to the power of the lord protector, respecting the prorogation and dissolution of the House, and his assent to bills. A parliament was summoned to meet on the 3rd of September, 1654, which soon became very refractory: instead of proceeding as Oliver wished, its time was occupied in examining and amending the scheme of government. The protector endeavoured to overawe the House and control its proceedings; the members would not submit, and Cromwell, disappointed and vexed, broke through his own scheme, and abruptly dissolved the House.

From this time till the death of Cromwell, which happened on the 3rd of September, 1658, the parliament had no power to effect any object of importance to the stability of the government.

Early in the month of May next following, the members of the parliament which commenced in November, 1640, and were dispersed on the 20th of April, 1653, were invited by the army to re-assemble, and this invitation having been complied with, the House renewed their former declaration of constituting a government without a *single Person, Kingship,* or *House of Peers,* and Richard Cromwell having resigned the office of protector, Mr. Scobell, late clerk of the parliament, was directed "to search out the ingrossed act for a new representative, and deliver it this day sevennight."

The House proceeded to settle the government under the influence of the army, and its proceedings were therefore very irregular: at length, on the 16th of March, 1659-60, a bill, dissolving the parliament, and calling a new one on the 25th of April following, was passed, and thus an end was put to the Long Parliament, more or less of the members of which, under several forms, had been members of the several parliaments held during the preceding nineteen years.

Notwithstanding the precautions taken by the members of this parliament to secure seats for themselves, and to have the number filled up to four hundred, as the means of preserving the Commonwealth, matters rapidly reverted to the old order; and the parliament which met on the 25th April, having invited prince Charles to assume the crown, the kingly form of government was restored in his person on the 29th May, 1660.

From the commencement of the civil war, two main impediments stood in the way of those who contemplated the advantages the people would possess in governing themselves by their representatives. These were the Royalists, properly so called, and the Presbyterians.

The gloomy fanaticism of the Presbyterians admitted of no toleration in matters of opinion; rigid conformity to their narrow notions was the basis on which, and on which alone, they would concur in any scheme of politics. They fought against the king mainly because he and his party would not conform to their tenets; they were ready to fight with the Independents on the same ground; they hated them for their notions respecting liberty of conscience, and would have transferred the government from their hands to those of the king, merely because he was less tolerant than they were. It was the Presbyterians who prevented the well-digested philosophical principles contained in the agreement of the people being adopted; had this agreement been carried into effect, and an equal representation been once established, a revolution somewhat similar to that of 1688 would, in all probability, have been brought about, and

with this special and important difference, that instead of vague generalities, so little essential to the liberties of the people, the king would have been compelled to conform to such special arrangements as must have produced the happiest results. The House of Commons, instead of being unequally composed and essentially corrupt, any thing indeed rather than a representation of the people would have been, as it ought to have been, emphatically the people's house: instead of being continued for seven years, it would have been either annual or biennial; the energies of the people would have had full scope for action, and their improvement would have been as rapid as it has since been in the United States of North America. It would indeed be difficult to appreciate the good which must have followed the arrangement proposed. The evils, which, from the want of a fair and equal representation of the people, have been, and still are endured, need not be here pointed out, they are as obvious as they are numerous.

The good of the people was, however, wholly sacrificed to the domination of those whose interests were opposed to their welfare, and to the gloomy bigotry of those whose absurd and narrow notions were the torment of themselves and of every one else over whom they had either power or influence.

Charles II was called to the throne by a parliament not summoned by the king's writ. The proceeding is justified by Blackstone and others, on the plea of "necessity which supersedes all law." If the people wished to have a king, they were competent to send for Charles, or any one else; but the plea of necessity may be equally pleaded for all the proceedings of the government during the Commonwealth, and cannot, as these writers wish, be applied exclusively to the act of restoration.

The re-action which took place on the accession of Charles, was a consequence of the attempt to establish political freedom among a people, who were not yet in a condition to appreciate its value.

No stipulations were made with Charles in favour of the people; nothing was done to limit his power to do evil; and Burnet remarks, that it was to the want of stipulations and limits that the errors of this king's reign may be imputed.

The Houses of Lords and Commons, which placed Charles upon the throne, were made a parliament by an act passed after the King's return. This parliament showed itself willing enough to sacrifice the country to the court; but the King and his advisers were of opinion, that a new parliament, if elected while loyalty was at its height, was much more likely to be permanently useful, than one which contained many men who had

been elected in 1640, or had participated in the proceedings of the House during the Commonwealth.

The parliament was, therefore, dissolved, and a new one called, which met on the 8th May, 1661. Means were used to promote the election of persons agreeable to the court, and to exclude those whom the court disliked. When the House was assembled, it was at once ascertained that, with the exception of a very small number, the members were likely to answer the purposes of the court to its fullest extent. In his speech to this parliament, the King told the Commons that, "he knew most of their faces and names, and could never hope to find better men in their places; that from the first institution of parliaments there never was a House of Commons fuller of affection and duty to their King, nor more desirous and solicitous to gratify their King." He was not mistaken. The House commenced business with a disposition to promote the King's views to an unlimited extent. It originated and sanctioned vindictive proceedings against the Common-wealth's men; and yet, infamous as these proceedings were, they were by no means the worst which this base parliament adopted.

A bill was brought in to repeal the Triennial Act, but was not proceeded with, and the King was offended at what he considered neglect. On meeting the parliament after its prorogation, on the 16th March, 1664, he remarked on the conduct of some whom he called desperate and wicked men, "who, by some computation of their own upon some clauses in the Triennial Act, pretended that the present parliament was at an end some months since, and that, for the want of new writs, they may assemble themselves, and choose members of parliament, let them proceed at their peril. There is no colour for the fancy of the determination of this parliament; yet I will not deny to you, that I have always expected that you would, and even wondered that you have not, considered the wonderful clauses in that bill, which passed in a time very uncareful for the dignity of the crown, or the security of the people. I pray, Mr. Speaker, and you gentlemen of the House of Commons, give that Triennial bill once a reading in your House, and then, in God's name, do what you think fit for me and yourselves, and the whole kingdom. I need not tell you how much I love parliaments; never king was so much beholden to parliaments as I have been, nor do I think the crown can ever be happy without parliaments. But assure yourselves, if I should think otherwise, I would never suffer a parliament to come together by the means prescribed by that bill."

Nothing which was ever said or threatened by any preceding

King, exceeded in atrocity this speech of Charles. He here, in words not to be misunderstood, told the two Houses of Parliament, that, unless he was permitted to trample on the laws which had been made to secure, in some measure, the people's liberties, he was resolved to set them aside by force of arms, whenever he thought himself sufficiently powerful to wage a successful civil war with his people. It might have been supposed, that even this pensioned parliament would have resented the insult; but, so far were they from feeling the indignity, that, without even a murmur of disapprobation, they immediately obeyed the command, and by the mouth of their Speaker, on presenting the bill for the King's assent, prostrated themselves at the feet of the tyrant.

The act repealed the act 16th Charles I and enacted, that, "because by the ancient laws and statutes of this realm made in the reign of king Edward III, parliaments are to be held very often—parliaments shall not be intermitted or discontinued above three years at the most, but within three years from and after the determination of this present parliament, and so from time to time from the determination of any other parliament or parliaments, or if there be occasion, more often."

The preamble recites, that the cause of the act 16th Charles I being repealed is, its being "in derogation of his majesty's just rights and prerogatives inherent in the imperial crown of this realm."

The declaration in the preamble might, with equal truth and justice, have been applied to the repeal of Magna Charta, and of every other act which restrained the power of the king, as well politically as in respect of property, and set aside the title to every man's estate. Yet the words are dwelt upon by Blackstone, from whom but too many take their notions of law and jurisprudence, and by numerous writers in favour of the two great political factions, just now merged in one body, let us hope never again to be separated.

The fierce and absurd spirit of loyalty which manifested itself on the elevation of Charles to the throne, began to subside; his actions had convinced many that he aimed at the re-establishment of the Catholic church, and the exercise of despotic power.

Corrupt as were the members of this pensioned parliament, they could not be wholly uninfluenced in some of their proceedings by that love of power which long possession never fails to engender; and this, with the carelessness of Charles, induced them, on the suggestion of the few good men among them, to adopt several measures of public utility.

The conduct of the earl of Clarendon alarmed them for their

existence as a parliament, a condition but too necessary to many of them, and was no slight inducement to their proceeding against him, and accordingly on the 6th November, 1667, in their first charge, they accuse him of "having advised his majesty to dissolve the present parliament, and to lay aside all thoughts of parliaments in future, to govern by military power, and to maintain the same by free quarters and contributions."

On the 18th of the month of February following, "a bill for the frequent holding of parliaments was read," upon which the House "ordered that the person (sir William Temple) who brought in the bill, do withdraw it, and that no bill of this nature be tendered to the House but by leave of the House." * From what is reported of the debate on this occasion, it seems probable that the bill contained a compulsory clause on the King, and that it gave power to the lord keeper to call the parliament, if the King omitted to do it himself. †

Several bills to regulate elections were brought in, but none were passed.

In the Autumn of 1673, the nation became alarmed at the proceedings of the King in his foreign alliances, and the projected marriage of the duke of York with the duchess of Modena, a papist: the House on this occasion partook of the feelings of the people, and addressed the King to prevent the marriage, and on his refusal, they suspended the supplies, and the King prorogued the parliament.

From this time the House and the King did not go on quite so pleasantly as formerly, and Charles released himself as it pleased him from their obnoxious interference, either by adjournment or prorogation.

He entered into a secret treaty with the king of France, to make war upon the people, as the means to establish the Catholic church, and make the power of the king absolute.

The French king was to send an army to garrison certain places named in the treaty, and upon the receipt of 200,000*l.* as part payment of Charles's pension, he proceeded to raise a formidable army in England. The French minister in England not only paid the money to Charles, but with his approbation, proceeded, by bribes and pensions, to secure the assistance of members of the House of Commons in favour of his master.

In pursuance of his agreement with the French king, Charles, who thought he could do without any fresh supplies for some time, adjourned the parliament from the 22nd November, 1675, to the 15th February, 1677, a period of nearly fifteen months.

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* Journals, vol. ix. p. 52. † Parl. Hist. vol. iv. p. 410.

This long prorogation gave rise to much contention, and many pamphlets were written to prove that the parliament was dissolved by being prorogued beyond a year; these were replied to by the supporters of arbitrary power; they extolled the King's prerogative, and, safe under the protection that power afforded them, laughed at their opponents.

It was ably and conclusively shown, that the statutes passed in the 4th and 36th Edward III had never been repealed, and were still in force, and that the King was legally bound by them to call a parliament once a year. When the parliament met, the duke of Buckingham objected to the House proceeding with any business until it had decided, "whether the parliament be not dissolved, because the prorogation of this parliament for fifteen months is contrary to the statutes of the 4th Edward III and 36th Edward III." The duke supported his motion in a long and able speech, in which it is remarkable that he never once used the cabalistic word *prerogative*. The duke combated the lawyer's arguments, that the words, "more often if need be," in the statute 4th Edward III, applied as well to the calling of any parliament at all, as to the calling of a parliament more often than once, "if need be," and that the King was the sole judge of the need. He showed that the cavil about these words could not avail them, since they were omitted in the subsequent act 36th Edward III, which, in the most unqualified and peremptory manner, commands that "a parliament shall be holden every year, as another time was ordained by statute." The duke was supported by the lords Shaftesbury, Salisbury, and Wilton, who were answered by being committed to the Tower, there to remain during the pleasure of the King.

The matter was noticed, in a feeble manner, in the House of Commons, where sir Charles Harboard, in conformity with the prevailing doctrine of the courtiers and corrupt lawyers, contended that, "all parliaments are in being, until dissolved by the death of the King, or the words of his mouth." This doctrine had become orthodox among the favourers of arbitrary power; it was this which made Charles so very desirous to have the Triennial Act 16th Charles I repealed. The power he affected to possess of keeping the same parliament in existence as long as he lived, and calling it together once in three years, and then for as short a period as might suit his purposes, which it was contended he might do, not only without any violation of the law, but in strict conformity with the very letter of the statute, would, he expected, be matter of great convenience to him; and he had therefore no objection to the clause in the act which

enacted, that "the sitting and holding of parliaments shall not be intermitted or discontinued above three years at the most."

That brave and incorruptible Englishman Andrew Marvel was a member of this parliament; and in a work published during the prorogation,* he describes the House as composed of placemen and pensioners, hungry expectants, men of infamous character, who eat at the expense of the court, and who, if they were not in parliament, must be in prison. He relates, that in a debate concerning pamphlets and libels, a member stood up, and in the face of the House said, it had been affirmed to him by a person who could be spoken with, that there were among them, thirty, forty, fifty, God knows how many, outlawed; Another said, that divers of the members were papists; a third, that a multitude were bribed and pensioned; and yet all this was patiently hushed up by the House, and digested, being, it seems, a thing of that nature to which there is no reply." †

Marvel describes the House as a conspiracy against the people, and proves his assertion by a list of the members, their characters, places, pensions, and emoluments.‡

This standing parliament, from its long continuance, and its *esprit du corps*, spite of its subservient disposition, conceived itself possessed of powers inherent in itself, which it occasionally exercised to the equal discomfort of the King and the House of Lords. With the latter it had some serious disputes. It made several efforts to exclude the duke of York from the succession, and instituted proceedings against the King's favourite minister, the earl of Danby; this could not be borne by the King, who, on the 30th December, 1678, prorogued, and on the 24th of the following January, dissolved, the parliament, which he had kept in existence for the long period of seventeen years.

The tide of loyalty had slackened considerably, and the King was unable to procure a parliament to please him. When the new parliament met in March 1679, it revived the bills which had given great offence to Charles; it passed the Habeas Corpus act, made some inquiries respecting delinquents, and proceeded with a bill to exclude the duke of York from the succession. On the 27th of May the King put a stop to their proceedings by a prorogation, which, in defiance of the law, he

* An Account of the Growth of Popery and arbitrary Government in England, more particularly from the long Prorogation of November, 1675, ending the 15th February 1676-7, till the last Meeting of Parliament, 16th July, 1677.

† Parl. Hist. vol. iv. p. 1264.

‡ Marvel's Works, vol. ii. p. 555.

continued to the 21st of October, 1680, a period of seventeen months. The parliament was now split into the two factions, known by the appellation of Whigs and Tories, and the proceedings of the House of Commons were very anomalous; it impeached several of the corrupt judges, passed a resolution against placemen sitting in the House, ordered that no one should lend money to the King in anticipation of his revenue, read a bill for securing the calling and sitting of frequent parliaments, and passed a bill to exclude the duke of York, which the Lords, at the King's command, rejected. This parliament was prorogued on the 10th of January following, and never met again.

A new parliament met on the 21st of March, 1681, and revived the Exclusion bill; this so offended the King, that at the end of seven days he dissolved the parliament, and never called another. It is now known that Charles had, in consideration of the pension granted him by the king of France, bound himself never to assemble another parliament.

Notwithstanding the proceedings in the House of Commons in the two last parliaments, so corrupt was the government in every essential particular, so infamous the courts of law, so debased the public men of both factions, with but few exceptions, and so supine the people, that all hope of restoring or establishing the liberties of the nation was abandoned, and many of the friends of freedom quitted their country in despair. The nation appeared as on the eve of a base submission to the court, and an absolute surrender to the King of all pretensions to control his power was expected, when his death somewhat changed the anticipated course of events.

James II immediately assumed the crown, and had his pride flattered and his bigotry increased, by the servile adulations contained in numerous addresses, some of them singularly base and mean. He at once became a pensioner of the king of France, to whom he sent an apology for having summoned a parliament. The corporations had been new-modelled, and James calculated on a House of Commons as servile as he could wish; by means of such a House he expected to be put into a condition to dispense altogether with parliaments, and in this he was not disappointed. At the opening of this perfectly infamous assembly, on the 22nd of May, 1685, the King, in his speech, said, "There is one popular argument which I foresee may be used against what I ask of you, from the inclination men have to frequent parliaments, which some may think would be best secured by feeding me from time to time by such portions as th [illegible] and this argument I

will answer once for all, that this would be a very improper method to take with me, and, that the best way to engage me to meet you often, is to use me well. I expect, therefore, that you will comply with me in what I have desired, and that you will do it speedily, that this may be a short session, and we may meet again to all our satisfactions." The House instantly voted the King an annual revenue of upwards of two millions sterling, to continue during his life; a revenue so large as to make the calling of parliament unnecessary, unless an extraordinary emergency should arise. In a little more than a month from the opening of the parliament, the King prorogued it till the 9th of November; after sitting only nine days, it was again prorogued, and was not again assembled.

James had fully resolved never to hold another parliament. Early in the month of June, and while the parliament was sitting, the duke of Monmouth landed with a small force in the West of England, and soon afterwards published a declaration of the reasons which had induced him and his partizans to make war upon the King. The declaration is noticed by Ralph, as "coinciding perfectly with the prejudices and passions of those it was principally addressed to, and of course was well calculated to answer the great ends in view; and had for its basis the following self-evident propositions, viz. "1. Government was not instituted for the private interest or personal greatness of the governors, but the security and protection of the governed. 2. It cannot be imagined that mankind would part with their power to arm their governors against themselves, or to be rendered more miserable than they were in the state of nature.—These principles were applied to England." A long narrative followed, pointing out abuses, and abounding with imputations. Exaggerated as some of the statements were, and false as were also several of the charges, much that was stated was substantially true, and it proposed much that was useful. It pledged the duke and his partizans "to use their utmost endeavours to procure the several laws, rights, and privileges, following:—

"1. That no Protestant, of what persuasion soever, shall for the future, be molested or troubled for the exercise of his religion.

"2. That *parliaments* shall be *annually chosen* and held, and shall not be prorogued, dissolved, or discontinued within the year, till petitions shall be answered, and grievances redressed."

There were two other articles, one of which related to the militia, the other to corporations. It put many very important matters on a proper basis; but the people were not prepared to

take advantage of circumstances, and the attempt to reuse them failed.

The total discomfiture of Monmouth increased the power of James, of which, had he known how to make a discreet use, he might, perhaps, have succeeded in establishing a despotism. But his pride and ignorance caused him to precipitate measures which ruined him, compelled him to fly the land, and brought about the Revolution of 1688.

ART. II.—*The Pelican Island.* By James Montgomery. In Nine Cantos. London. 1827. Longman & Co.

MR. MONTGOMERY is less of an egotist than almost any modern poet; and it is, therefore, difficult to ascertain whether he is satisfied with the measure of fame which has been allotted to him by his contemporaries. His feelings on this subject must depend entirely upon the ends which he proposed to himself when he commenced his literary career. If his ambition induced him to wish for nothing further than that his works should circulate rapidly and widely—that they should be admired and purchased by a large class of readers—it has been abundantly gratified. His name is enrolled among the regular favourites of the public, and the critics have generally treated him with the respect which they are expected to pay to those whom their masters honour. But if his views in early life were more extensive and daring; if he trusted that his works would be most praised by those whose praise would be most precious to him; if he calculated upon the admiration of that class whose admiration in itself outvalues many editions, and is doubly agreeable, because it eventually secures the admiration of all others, the treatment which his poems have received must have caused him many painful disappointments and misgivings. That he has been loudly extolled by many whose silence would have been the least injurious homage they could have offered, is a misfortune which he might endure with patience; but that his works should have been received with indifference by men of genius, that amid the din of vulgar panegyric he should so seldom recognise the encouraging voices of those who are competent to appreciate his merits, is a fate which he has a right to deplore, and which, we will venture to add, he had no reason to expect.

This mortifying indifference on the part of men who are generally the most equitable, as well as the most experienced, judges of kindred excellence, may be accounted for, we think, without

disparagement to Mr. Montgomery's claims upon our admiration as a real and undoubted poet. A very perverse theory was prevalent among the critics of the last century, and finds favour among those writers of our own day who have an interest in propagating it; that the true and only test of a poet's merit is his popularity with the multitude. Against this opinion, which, by a very common progress, had risen from a paradox into a common-place; and which was diligently fostered by patrons, loungers, *et id genus omne,* who wished to have it believed that there was at least one subject which they could understand without study or reflection, those writers who felt that they had thoughts which could not be intelligible to the herd of vulgar minds, stoutly combated. They maintained that there was nothing in argument or experience to justify such a notion; that the principle of all other studies was at variance with it; for no one will contend that a metaphysician or a natural philosopher who thinks and reasons deeply will be acceptable to those who do not think or reason; finally, that there is nothing in the peculiar characteristics of poetry to take it out of the general rule. To the favourite argument of their opponents, that the difference of poetry from all other studies consists in its having for its (immediate as well as ultimate) end the production of pleasure, and, therefore, that the kind of poetry which produces the most pleasure is necessarily the best, they answered that this reasoning, if pushed to the extent which is necessary in order to support the opinion in question, must lead to one of two absurd conclusions: either it supposes that poetry, because its *design* is to produce pleasure, has the *power* of reversing the laws of human nature, and of compelling persons differently constituted to take delight in the same pleasure, though it be framed for the very attribute in which they differ, viz. their intellects; or else, admitting the impossibility of gratifying both classes at once, it supposes that the quality of an intellectual pleasure is to be determined by something else than the quality of the intellects that are affected by it. Examples, upon which the supporters of this hypothesis principally rely, are, it was contended, decidedly against them. Neither Æschylus, nor Dante, nor Milton, has the slightest pretension to the name of a popular poet. Even if Johnson's attempt to confute the well-authenticated traditions respecting the early reception of Paradise Lost had been more successful, there is sufficient evidence to convince all who are willing to be convinced, that the veneration expressed for it in the present day by all classes, is almost solely the result of that deference which inferior minds pay to those who think; and that by the majority it

is less read and less relished than almost any other English poem. Before we can judge whether Shakspeare, who at first sight seems an authority on the other side, is really such, he must be divested of all that theatrical fame which, in reality, is paid, not to him, but to Garrick, Kemble, Siddons, and Kean. Nor is this the only element which must be taken from his popularity. We must deduct likewise all that appertains to him as the unconscious representative of national ostentation and insolence —a reputation to which he, of all writers, least deserved to be subjected, seeing that the most marked characteristic of his writings is the indifference displayed in them to merely local peculiarities, and the anxiety to bring forward those qualities in which human nature is the same all over the globe. If we separate in our minds the reputation of Shakspeare from these its accidental accessories, and if we take the pains to observe, further, that the parts of his works which are generally dwelt upon with the greatest satisfaction, are those in which the peculiarities of his genius are *not* revealed—we shall, perhaps, scarcely be disposed to consider that he (by which we mean his works, and not his *name)* is, any more than his brethren, a favourite of the multitude. A similar observation is applicable to the two great poets of our own day, Wordsworth and Shelley. It is true that the clamour which was raised against the poetical innovations of the former, by exciting discussion, has been the means of procuring him many disciples whose intelligent and earnest panegyrics have done much to extend the fame of his merits in quarters where they are really little understood or appreciated. But even the enthusiasm of these admirers, which constantly leads them to mistake the echoes of their own praises for fresh voices lifted up in adoration of their idol, cannot blind them to the fact, that his writings are still, and will long remain, "*caviare* to the general." And Shelley, who combined every essential requisite of the poetical character with nearly every accidental gift that can grace and adorn it, who was more vigorous in his imagination, more harmonious in the structure of his verse, more absolute in his tyranny over language, more impregnated with genuine classical feeling than any poet since Milton, and whose poetry is a continuous stream of lofty, though sometimes misdirected feeling—is unknown to the majority of readers, and is slightly esteemed by a large portion of the remainder, because he has not laboured (after the example of some popular favourites) to produce in the mind those alternate states of delirious excitement and miserable depression, which are as inconsistent with the spirit of poetry as they are unfriendly to human happiness.

These arguments, and this evidence, we think entirely con-

clusive against the opinion that first-rate poetical excellence will always, or even frequently, meet with popular admiration. But men of genius have been too much in the habit of overlooking the limitation which is implied in the words "first-rate excellence," and of stretching the doctrine to a very unwarrantable extent. Practically, if not in theory, they have assumed, that the majority of mankind will not merely reject the best, but prefer the worst specimens of this kind of writing.* They have thus virtually destroyed the force of their argument, from the analogy of poetry to all other studies; for who will contend, that when two books of history, for instance, are equally intelligible, the public generally choose that which has fewest recommendations on the score of merit? Who would argue that because ordinary readers dislike Tacitus and Machiavel, *therefore* when the election is to be made between two writers like Sallust and Livy, both on the level of their capacities, the affected utterer of pompous truisms will be preferred to the easy, lively, and graceful narrator? And it is surely equally absurd to contend, that because those poets who are manifestly above the reach of the popular understanding are not appreciated, therefore all the poets who are generally admired must, necessarily, be despicable. Experience is decidedly against such an opinion. Thomson's "Seasons" obtained an early and extensive popularity: Gray's "Elegy" immediately acquired that reputation which, now that most of his other writings are deservedly neglected, still preserves his name from oblivion. Cowper, though he commenced poet at fifty, had the satisfaction, before he died, of seeing the "Task" in the possession of a great and merited reputation. It is too late to argue that the faults which abound in these works, and not their excellencies, are the cause of the honour which the public has delighted to pay them. If their defects were the reasons of the attention which they excited, their merits, at least, came in for a share of the admiration they subsequently received; and it would be idle to inquire, how much of the homage nominally rendered to the entire idol, was in secret paid to the head of gold, and how much to the feet of clay. It is sufficient, as a proof of the little dependence which can be placed upon popular taste, to remember that Gray's "Bard" was as much admired as his Elegy; that the poems of Macpherson, in the opinion of general readers, much eclipsed the "Seasons;" that the "Task" divided the praises of the town with the "Botanic Garden;" and the force of the argu-

* Something of this feeling is observable in Wordsworth's two Prefaces, which are, in most other respects, very instructive pieces of criticism.

ment is not increased by asserting, in direct contradiction to the facts, that the people never relish good food, because they do likewise batten upon garbage.

Indeed, the blame of this undistinguishing appetite for really good, and execrably bad verse, is, in great measure, due to the men of genius themselves. Proud of being able to appreciate the higher order of poets, they have exhibited a contemptuous indifference towards all the rest, as if they thought there were no degrees of poetical merit; as if any thing short of the best, could not be good. If they had merely proceeded upon this principle in selecting the subjects of their own reading, there would have been no great harm in their fastidiousness. A person is certainly not bound to read Cowper who can understand Milton; nor Montgomery, who appreciates Wordsworth. What we complain of is, that they have been ostentatious in their ill-treatment of second-rate excellence: that not content with insulting the public by incomprehensible panegyrics on their own divinities, they have scoffed at every writer who possesses any portion of its regard. The effect of this supercilious conduct has recoiled upon themselves. If they had condescended to look more closely at the "pretty bards," as they contemptuously styled them, and to discriminate between those who have no other claim to the title of poet than that of long prescription, and those who differ from "first-rate poets," only in the degree of their merit; if they had pointed out the absurdity of holding two such different sets of writers in esteem together, they would have done much to purify the public taste, and, to educate it into a proper admiration of the highest models. As they have neglected this obvious course, the taste of ordinary readers has not made much progress. Bad and vulgar notions have been handed down from generation to generation, till they have become fixed, undoubted principles;* and consequently, when a poet

* In one of his letters to Molyneux, Locke has mentioned Blackmore as a good poet. This remark has furnished matter for many idle sneers against the philosopher, who ought, it is said, to have felt disgust at "King Arthur," for its sins against common sense, even if he was incapable of perceiving its absolute want of genius. But the sarcasm is entirely inappropriate. Fortunately for mankind, Locke's time was otherwise employed than in investigating the laws of poetical criticism; and, as he had no leisure for such amusements, he very naturally adopted the opinions of those in his day who professed to have studied the subject. They told him, that good poetry was the reverse of good prose. Most reasonably, therefore, he concluded, that Blackmore's work, which would have been execrable as prose, was excellent as poetry. His opinion only proves, that he reasoned better than the critics on their own premises.

arises who has strength of mind to desire, and genius to realise, something better than a temporary reputation, he has not only to endure the want of general sympathy, which he scarcely expects, but to struggle with much positive obloquy and contempt.

It is to the prevalence of the mistaken notion we have been endeavouring to expose among superior men, that we attribute the little favour which Mr. Montgomery's productions have found in their eyes. He is a "mob poet," a "six-edition poet," and therefore, say these literary aristocrats, "in our sense of the word, no poet at all." Now, we hope to prove, that this opinion is founded in prejudice and error; that Mr. Montgomery is a poet, in the same sense precisely as Shakspeare, or Milton, or Wordsworth, or Goethe are poets; and that, vastly inferior as he is to these great men, his difference from them is only in the measure of his gifts, while he is generically distinguishable from all counterfeit versifiers, however they may be equalled with him in renown. In attempting to discriminate these essential points of difference, which entitle this author, in our apprehension, to all the honours he has sought for himself, we shall carefully avoid all reference to that capricious, dogmatical, and unsatisfactory, faculty, called *taste*, and not demand our readers' assent to any conclusion which we cannot bring within the scope of some definable principle. Besides the uselessness of discussing questions of which mere taste is the arbiter, seeing that they never can be resolved to the satisfaction of more than five or six persons at most; and seeing likewise that, if resolved, the decision on any one case can never be the precedent for any future case, when the circumstances are at all varied, it is an arrogant assumption in a critic to lay down rules *ex cathedrâ*, in favour of which, when pushed to extremities, he can only urge, that he is convinced of their truth, and that his judgment being better than that of his readers, they ought to acquiesce. Any opinions we may happen to advance will be open to just the same kind of exposure as if the subject were one of metaphysics or politics; and, if a fallacy is detected in our reasoning, we shall certainly not attempt to evade the confutation by falling back upon our *taste*. It is this resort to principles, which is the distinguishing mark of poetical, as of all other, discussions in the present day, and which makes the criticism of Lessing and Schlegel so much superior to that of Kaimes and Harris.

The characteristic which we have observed in Mr. Montgomery, and which we have not observed in those of his brother versifiers, to whom we deny the appellation of poets, may at first

appear rather a singular ground-work for such an invidious distinction. It is simply this; that the thoughts which occur in his writings, seem to us *bonâ fide* thoughts, which have actually existed in his mind before they were transferred to his paper; in other words, that he, in the true and only sense of that word, is an original writer.

Between these two notions of an author's thoughts being his own property, and of his being an original author, which we have treated as identical, we doubt not that many readers will discover a wide difference. The latter quality (at least if "a high order" of originality be meant) they will think can only be predicated of the highest geniuses; while the former will appear to them as necessary a characteristic of all writings as of poetical ones. Now both these opinions seem to us erroneous. To begin with the first. Those who do not concur in our definition of originality will do well to consider what notion of this quality they have framed to themselves. Perhaps, in their apprehension, an original author is one who trusts (as the phrase is) solely to his own resources; is indebted for none of his ideas to reflection either upon books, or upon nature, or upon himself; never attempts to make new combinations of the ideas he is already possessed of; whose information consists of waifs and estrays from the stock of more diligent men; and whose mind is made up of casual sensations, loose associations, and fleeting remembrances. According to this explanation, the phrase "highly original man" is intelligible enough, and will denote that person whose mind has made the nearest approaches to utter inanition. If the word be used in this sense as applicable to poets, Milton must for ever abandon his claim to the distinction, than whom no man ever studied more intently, or possessed a larger variety of knowledge, from the most vast to the most minute. But as this idea which supposes that man most original who takes no pains to derive his knowledge, must be discarded, what other meaning, if the phrase is intended to have a laudatory application, can be found for it, than the one we have offered, viz. that *he* is original whose thoughts, from whatever quarter they were derived, have really been adopted into his own mind, and have become a part of it? Originality, thus explained, does not admit of degrees, and the epithet "highly original" is unmeaning. So that if originality be, as we shall endeavour to shew, the essential requisite of poetry, it will follow that a mistake is committed whenever it is spoken of as the attribute which measures the *extent* of a poet's genius; that the quality and weight of his thoughts determine the rank he shall hold among his brethren, and that the meanest poet, who is really one, is just as original as Milton.

But of originality, thus expounded, must not every man possessing common sense be held to be a partaker? We think not. Most persons will admit, that no thought was ever realised in the mind which did not suggest some inference from or corollary to itself. Yet most persons who have taken much note of society and literature must likewise admit, that there are both talkers and writers, whose sole reputation arises from their diligence in repeating the sentiments of other men; and who, if any obviously legitimate consequence from any of those sentiments do ever occur to them, thank God, and make no boast of it. Of such literary hucksters, it is not illiberal to affirm, that the thoughts which they are the media of transmitting, have never actually existed in their minds; and, consequently, when they commit those thoughts to paper, they do not fall within our definition of original writers. Still these men are not useless in their vocation. Ideas which never took root in their own minds are communicated, through their intervention, to minds they would otherwise not have reached; to minds in which they do take root, and spring up, and bear much fruit. Why, then, if an analogous class to these, who form so respectable an order among writers on other subjects should attempt the cultivation of poetry, may they not meet with equal success? Why is originality necessary in the lowest department of that art, while in all others, a man may be, if not a proficient, yet certainly a useful underling without it? The usual way of representing poetry as something essentially mysterious, abstract, and indefinite, removes this and every other difficulty by a very brief process. It determines, generally, that poetry is exempt from the laws which govern all other kinds of composition, and, of course, there is no need to account for each particular anomaly. We, on the contrary, believe that upon examination, it will be found, there is but one difference between the subject matter of poetry and that of ordinary writing, and that this difference is the cause of the only difference in the attributes of mind necessary to each species of composition—the cause, namely, that the quality we have been considering is essential in the one, and not essential in the other. The thoughts which form the subject-matter of ordinary writing and discourse, are detached thoughts, thoughts moulded into the form of *opinions*, having a fixed existence, independent of the objects which suggested them, or of the states of mind in which they originated. The poet, on the other hand, should present us with thoughts as they exist in the mind—with thoughts in their relations to each other, and to the sensations or to the previous thoughts in which they took their rise. For the poet

and the metaphysician in this respect agree, that the business of neither is with thoughts when *formed*, but differ in that the one shows how thoughts are created, the other exhibits them in the process of creation. Now, it is obvious, that opinions may be much more easily transmitted by one who has never, in any proper sense of the word, understood them, than the thoughts with which poetry is conversant; that a mere hearer may be a very sensible and faithful reporter of the former, though, in attempting to describe the latter, he would commit continual mistakes. However closely he might attempt to imitate his models, there will be almost always some inaccuracy in the transcript. Thoughts, which a knowledge of the order they actually follow in the mind had taught his prototype to dispose in a certain sequence, he would, without scruple, transpose. The description of a feeling created by one impulse he would think equally applicable, when the exciting cause was perfectly different. And when treating of the passions, in developing which the skill of the real master is always exerted to discover the method which prevails in their madness—the law to which their most unsettled motions and apparently irregular reactions are subservient—he would typify the disturbance and confusion they create in his incongruous description of them. That these faults do exist in a large class of writers assuming to be poets, is undeniable; and that they originate from the cause we have mentioned is evident, because many of these authors exhibit such a portion of talent as proves that, if they had experienced the thoughts and feelings set down in their writings, they would have been able to describe them more rationally.

Without meaning any disrespect to two writers who, merely as writers, have displayed considerable talent, we may be allowed to mention Mr. Milman and Miss Landon, as each, in their separate styles, exhibiting instances of the pseudo-poetry, which we wish to contrast with the real poetry of Mr. Montgomery. The author of the Fall of Jerusalem is a scholar; in other words, he is acquainted with some of the very best models which it is possible for a poet to study—with those models, which, when examined by the mind as well as by the eye, are capable of suggesting, and did suggest, to Milton, and Schiller, and Shelley, thoughts as imperishable as their archetypes. Mr. Milman has read these works with as much diligence, and as much of the knowledge which schools and colleges impart, as any of his predecessors: as many passages out of them are probably stored in his memory, as in theirs. But the effect has been entirely different. The thoughts of his favourite authors have never become his thoughts, nor their feelings, his feelings.

The consequence is observable in his writings. They are what is called *classical*, an appellation scarcely ever bestowed, upon the works of those who have really inhaled the spirit of the classics; because it is not the quality of that spirit to re-produce exact likenesses of its old forms, but to enshrine itself in an everlasting variety of new forms. The Moses would never have been what it is, if Michael Angelo had not devoted himself to the study of the Greek models. Yet who shall venture to name the statue after which it was chiselled? Paradise Lost, in this respect, resembles the Moses; while Mr. Milman's poems may be compared to the copies of the great statues in the portfolios of academicians (for there can be no poetical *casts*) very like the originals except in those particulars which constitute their beauty and interest.

Belonging to an entirely different school, Miss Landon's verses exhibit precisely the same deficiency. Her models are inferior to Mr. Milman's, and her copies are consequently more open to minor critical objections. But in the circumstance of both their writings being mere transcripts, his of the classical, hers of the romantic,* we should rather say the sentimental, poets—they are precisely on a level. Both have some skill at imitation; neither have ever understood the ideas of the authors they have respectively studied, or, consequently, have any of their own. In the descriptions which occur in such works of outward nature, or of the heart of man, it is only here and there that we recognize any thing true; and this, too, though we constantly trace resemblances in them to writers who describe exactly what we have seen and felt ourselves. The cause is obvious. Knowing no reason why the author whom they imitate should have placed certain thoughts and certain objects in juxtaposition, and why he did not rather link other thoughts and objects together, they take ideas at random from all parts of his works, mingle them up without rule, method, or proportion, and thus produce a composition which, to those who look only at the separate thoughts may afford pleasure, but which to those who require system and connection, seems only a mass of shapeless incongruities. In Mr. Montgomery's writings there is nothing of this kind. The thoughts in his poems do really belong to the states of mind in which he supposes them

* The question, therefore, about the nature of poetry, according to our notion of it, has very little to do with the controversy between the respective partisans of these schools in France. To these disputants the unjust remark of Hobbes, respecting Milton and Salmasius, is fairly applicable: "It is difficult to say which side has written best, or argued worst."

to originate. Such of them as his readers have experienced, they know did occur to them in the order in which they occur in his writings: those which they have not experienced, they recognize as being properly systematised—as arising naturally out of each other. Hence we infer, that this author has himself understood and realised what he describes; that he has not merely copied from others; and, whatever be the value of his thoughts, this distinction entitles him to rank in the same class of writers with Milton and Wordsworth.

This primary excellence is generally* attended by another as its satellite. The language of a poet is nearly always clear, unaffected, and rational, differing little from prose in the collocation of the words, and differing from it in the selection of words only, because he rejects a few of the more artificial modes of speech which are current in conversation and ordinary writing, and because he occasionally delights to restore a word or phrase, which, in passing through various hands, has acquired new significations, to its primitive, etymological meaning. These are general characteristics. But the style of each poet will be also peculiarly his own, in the same manner, and for the same reason as each philosopher has a style appropriate to himself.† Writers who borrow their thoughts, are obliged to borrow the clothing for them likewise; and that they may not appear to have borrowed either, they procure them from different quarters; so that in their writings the style of one man is often carelessly fitted on to the ideas of another. But those whose thoughts are their own, commonly have a mode of expressing them which it is impossible to mistake. Whenever, therefore, a volume abounds with phrases and epithets culled from a great many sources, and employed on a great many occasions where there seems to be no call for their appearance, we may reasonably conclude, that the poet has learnt that lesson, which is early impressed on the youth of our land by the synonymes and verses in the Gradus; that ideas are things with which it is very possible to dispense. Some one remarked of Pope's Iliad, that all the beauties of diction which had been

* We say "generally," because we recollect one, and but one, exception. Thomson, though original in his conceptions, and undoubtedly a poet, either from having his taste early corrupted, or some other cause, adopted a remarkably vicious diction.

† It is almost impossible to avoid plagiarisms from such a writer as Mr. Wordsworth, who, in his prefaces, has treated so fully on this subject. Possibly, as we have not the book at hand, we may be unconsciously repeating some of his remarks verbatim. As we are upon the subject of originality, it [illegible] to guard against the suspicion of wilfully copying.

previously scattered over the entire field of poetry, were collected into it. This description, which was intended to be highly complimentary, really contains the most just and the most severe censure ever pronounced against that celebrated work. Pope, who in his satires (as Mr. Coleridge has remarked) always employs language the most chaste and appropriate, has assembled, in what he considered his *magnum opus*, all the most unmeaning and inapplicable "beauties of diction" to be found in all other writers; and the consequence is, that his Iliad, which was early discovered to bear the same relation to Homer, that a whiskered and toupeed cast in a hair-dresser's shop bears to the head of Memnon, is now generally regarded as a mere treasury of formulæ for prize poems. To this unfailing wardrobe of finery all who seek to be equipped for an ode or an epic constantly repair; and there collect words and phrases, which suit all contingencies equally well. Gray and Mason contributed some additional articles to this stock, and others of more recent celebrity have further enriched it by donations of some slip-slop phrases and colloquial vulgarisms, which the taste of their predecessors was too well educated, if not too pure, to admit; but which serve exceedingly well for those versifiers who wish to indulge their readers in an occasional relief from their usual heavy bombast. To be entirely free from these impurities, and to possess a native style, is a test of good poetry which scarcely ever proves fallacious, and it is one which Mr. Montgomery's writings will bear. As his conceptions are original, he needs none of those artifices for counterfeiting originality. His style belongs to his thoughts, "is bone of their bone, and flesh of their flesh." He scarcely ever resorts to the old hack language of poetry, and never to the still coarser modern embellishments. But for a few instances of carelessness and here and there a bad turn of expression, acquired from the habit of writing hymns, and the occasional (though rare) occurrence of unmeaning prosopopœias,* we

* Milton's contempt for personifications, whenever they are purely rhetorical, and not (as they are in Collins's Ode to the Passions) actually embodied, is evident from an amusing and characteristic passage in the "Apology for Smectymnuus," where he accuses the Remonstrant of "writing letters to a certain *rhetorized woman*, whom he calls his mother," and complains of some that laid whoredom to her charge; "and certainly," he adds, "had he folded his epistle to be delivered to that female figure, by any post or carrier who were not an ubiquitary, it had been a most miraculous greeting." Milton's dislike to the ordinary use of the phrases Liberty, Rights, Freedom, in political writings, seems to have been at least equally strong with his detestation of the analogous abstractions in poetry; and it would be a curious, and not uninteresting, employment, to

should be tempted to pronounce his diction faultless. Of course, it is inferior to the language of the great poets, because what is wanted to be expressed is inferior, but much better than their language would be if used as a vehicle for his thoughts. These merits, and the great additional one, that all his poems are written with a purpose, are amply sufficient to justify the highest rank that Mr. Montgomery has ever claimed for himself among poets. They are accompanied, no doubt, by faults which have, perhaps, contributed to his popularity as well as his merits. Of some of these we shall have occasion to speak, as we proceed to notice his last production, *The Pelican Island.*

In many respects this is the best of Mr. Montgomery's poems. The selection of objects for description is more happy, and the descriptions themselves are more definite than those in any of his former poems. The reflections are interwoven into the narrative (a great merit), and do not lose their effect from the formal mode of their announcement. The remarks which we have just made upon his language are also more applicable* to this than to "The World before the Flood," or "Greenland." There is good evidence in the "sober colouring" of his thoughts, as well as in their increased vigour, that he has made considerable advances to maturity, since he last presented the world with a work sufficiently long to be a criterion of his intellect. And we do not discover, as a set-off against these good symptoms, that he has lost any of the qualities which gave value and interest to his earlier exhibitions. We think, however, that in this pleasing poem there are indications of one serious deficiency in Mr. Montgomery's mind—a deficiency of that important requisite for good writing—a knowledge of the quality of his own genius. We do not mean that he overrates it; on the contrary, he errs, if at all, on the side of modesty; but we mean that he has

trace the links of association between these two feelings in his mind. Certainly there have been instances of persons, whose ideas were much less reduced into system than his, and less likely to communicate with each other, whose political tastes have been very much affected by their poetical ones.

* They are not by any means applicable to the "Wanderer of Switzerland." This work, the first of Mr. Montgomery's poems, amidst numerous defects and some of a very bad order, exhibited clear indications of the genius which he has since developed. If it be one part of the critic's function to discriminate between the merits and the vices of an author—for the purpose on the one hand, of reforming his judgment where it is wrong, by showing him where it is right—and on the other hand, of reforming the judgment of his readers, by leading them to such an admiration of their favourite's excellencies, as shall be incompatible with an admiration of his defects, these indications ought not to have escaped the reviewers who so furiously and flippantly assailed this work on its first appearance.

never taken proper pains to ascertain exactly what are its strong points, or how it may be displayed to the greatest advantage. As we have founded this opinion upon the selection he has made of an argument for his poem, it is fair to state what tht is, before we mention our objections to it.

The scene of the poem is laid in an island, of which Mr. Montgomery had read a description in captain Flinders's Voyage to Terra Australia. In this island the poet places a Spirit, possessing supernatural powers of thought and vision, and an indefinite longevity, but endowed with human sympathies, and apparently capable of exercising them on the events which are passing in those parts of the globe to which his immediate observation does not extend. Through a long tract of ages, distant portions of which are sometimes present to his consciousness at the same moment, this Spirit takes note of the birth, growth, and dissolution, of various kinds of animate and inanimate existences. The description of these sights, happily relieved by allusions to the feelings of the observer, and his longing for human fellowship, form the materials of the first five Cantos. In the sixth the Spirit is transported from the island, wanders at will over the whole globe, and instead of natural appearances describes the condition and changes of human society. Whether any light will be thrown upon this imperfect abstract of the poem by the following lines, which occur near the commencement, we do not know, but at least our readers will be gratified by the relief from our dull prose :—

I was a Spirit in the midst of these,
All eye, ear, thought; existence was enjoyment;
Light was an element of life, and air
The clothing of my incorporeal form;
A form impalpable to mortal touch,
And volatile as fragrance from the flower,
Or music in the woodlands. What the soul
Can make itself at pleasure, that I was:
A child in feeling and imagination,
Learning new lessons still, as nature wrought
Her wonders in my presence. All I saw
(Like Adam when he walked in Paradise)
I knew and named by secret intuition.
Actor, spectator, sufferer, each in turn,
I ranged, explored, reflected. Now I sailed,
And now I soared, anon expanding, seemed
Diffused into immensity, yet bound
Within a space too narrow for desire;
The mind, the mind perpetual themes must task,
Perpetual power impel, and hope allure.
I and the silent sun were here alone,

But not companions; high and bright he held
His course. I gazed with admiration on him—
There all communion ended; and I sighed,
In loneliness unutterable sighed,
To feel myself a wanderer without aim,
An exile amid splendid desolation,
A prisoner, with infinity surrounded.

* * * * *
* * * * *

Darkness meanwhile, disguised in twilight, crept
O'er air and ocean; drearier gloom involved
My fainting senses, till a sudden ray
Of pensile lustre sparkled from the west;
I flew to meet it, but drew never nearer,
While, vanishing and re-appearing oft,
At length it trembled out into a star.
My soul revived, and could I then have wept
(Methought I did), with tears of fond delight,
How had I hailed the gentle apparition
As second life to me; so sweetly welcome
The faintest semblance of society,
Though but a point to rest the eye upon,
To him who had been utterly bereaved.
Star after star, from some unseen abyss,
Came through the sky, like thoughts into the mind,
We know not whence, till all the firmament
Was thronged with constellations, and the sea
Strewn with their images. Amidst a sphere
Of twinkling lights, like living eyes, that looked
At once on me from every side, I stood
(Motion and rest with me were mere volition)
Myself perhaps a star among the rest,
But here again I found no fellowship;
Sight could not reach, nor keenest thought conceive,
Their nature or their offices. To me
They were but what they seemed, and yet I felt
They must be more; the mind has no horizon,
It looks beyond the eye, and seeks for mind
In all it sees, or all it sees o'erruling.

These passages, though written very much in Mr. Montgomery's usual style, are not sufficient to prove any thing respecting the nature of his gifts. But we think most readers acquainted with his compositions generally (and the Pelican Island, certainly is a confirmation of the remark) will allow that what has always seemed to them the prevailing characteristic of his poems is *Fancy**—that faculty which extracts from objects

* The words Fancy and Imagination are not, perhaps, used here in their proper metaphysical sense. As, however, we wished to describe their

apparently common-place and uninteresting, whatever there is in them of latent beauty—which combines objects together, so that the image of each shall be reflected in the other; which makes one object the refracting medium through which light is conveyed by things external *into* the mind, and another the refracting medium by which light is thrown *from* the mind upon things external: and so disposes the lights and shadows in which it exhibits familiar sights, that a sense of novelty shall be superinduced upon the certainty that they are still the same. And if they were asked to point out the faculty in which, judging from his poems, Mr. Montgomery does not abound, we think they would answer with equal readiness, that he was deficient in *Imagination*, in the faculty which brings distant objects into neighbourhood, which assimilates objects never seen to those which are palpable—which imparts to what is not real the attributes of existence. Now it is evident, from the hasty description we have given of them, which is much the same as is generally given of them, that the province of these faculties must be not merely different but opposite. The objects of the imagination are just in that state when she leaves off working upon them, in which the objects of Fancy are when she begins to work upon them. The pleasure arising from an exercise of the imagination is produced, by our having that presented to us, which is perfectly new; the pleasure arising from the fancy—by our having an object presented to us in one shape, of which we have a clear and perfect recollection in another. The imagination works its miracles by likening the unknown with which it is conversant, not merely to what is known and material, but to what is most known and most material; and it must avoid every embellishment, as tending to weaken the sense of reality which it is its purpose to create. In the productions of fancy, embellishments are not only lawful, but necessary; her sole prerogative and employment is, to invent and diversify them.

The care with which Milton has assigned a separate employment to each of these faculties is truly wonderful. In the first two books of Paradise Lost, where he is dealing with strange and unearthly beings, nothing whatever is omitted which can give materiality to our notions of them. He does not indeed invest Satan with horns and a hoof, as his German critics think he should have done, for this would have been to destroy the reverence with which he meant to inspire us for his hero. But he causes these beings to produce a palace, built like a

application rather than their nature, it seemed better to retain the common language than to resort to neologisms, which though needful in scientific writings would look pedantic in an article upon a popular subject.

temple, with Doric pillars and pilasters, and cornice and frieze; he introduces into the debate of the fallen spirits, every kind of human interest, and in the passage through the middle world, he brings in the frightful forms of Sin and Death, which, if they had been merely allegorical personages, as Addison supposed, would have been contemptible, but which, considered as real creatures, intended to give a terrible definiteness to what would otherwise have been vague and unimpressive, are not among the least wonderful creations of his genius. As these contrivances have just enough of the indefiniteness which originally enveloped our conceptions of the subjects of his song, to prevent us from conceiving them human, on account of their human attributes and actions, these two books go nearer than any other poem to furnish a solution of the problem—What is the highest degree of resemblance which the mind can feign to itself as existing between the objects of the imagination and those of the senses, without actually believing the former to be sensuous? But who could ever divine that the author of these stern, dreadful books, was likewise the author of L'Allegro, and Il Penseroso? There is no embellishment, no play of fancy any where, and if these had been the only books of this great poem which had come down to us, the critics would have worn themselves out with conjecturing, whether it was owing to his being debarred from the sight of summer's sun and vernal rose, or to his being possessed with the "dire spirit of Republicanism," that Milton had lost all sympathy with those images which in early life exerted over him such wonderful fascination. But the fourth and fifth books have saved them the trouble of speculating. There we perceive that the fancy was not dead, but sleeping—suppressed because the subject with which he was dealing was one which precluded its exercise, but ready to burst forth at the first fitting moment, in all its original luxuriance. Amid the familiar sights and sounds of the garden it again finds employment, for there is the proper field for the display of it.*

From all this it is quite clear that the subjects to be selected by an author whose chief gift is that of fancy, must be known and familiar subjects—belonging to our own earth, and which,

* Even the garden of Eden, however, being in so many respects different from other gardens, would not, if made the subject of a separate poem, have furnished a proper opportunity for the display of fancy. But owing to the previous character of the subject—to the strange beings with which he had been communing—the first objects at all like those we have been accustomed to meet which fall in our way, are instantly invested by the mind with *much more* likeness to them than they really possess. This feeling induces a voluntary exercise of imagination, which puts the garden on the same footing with a known and remembered object.

or the exact counterparts of which, we can call up before us by a simple effort of memory. These requisites do not exist in the subject of the Pelican Island. In vain Mr. Montgomery will tell us, that this Island exists in our own globe, that we may find it by referring to the map, or read a description of it in Flinders's Terra Australia. Perhaps so, but still it is a great way off; and centuries are crowded together there, which always preserve a very perceptible distance from each other here; and, moreover, it is watched over by a Spirit, all eye, ear, thought, who exists through long ages, and cannot, but by a very violent effort of conception, be made to belong to this planet, where the inhabitants are carnivorous, and die at threescore years and ten. When, therefore, he puts forth all his power to embellish and adorn this island, his readers are not prepared to admire nearly so much as they wish; for there is in their minds no common-place idea of the scenery he describes, which they can contrast with his picturesque idea of it. We are obliged, by an effort of imagination, to picture to ourselves what the naked thing is, and then to consider the way he has clothed it. And as this effort, sustained through six cantos without any assistance from the poet, is painful, we are afraid that the beautiful passages in this poem will not confer half the pleasure on his readers, which the genius exerted in producing them might warrant us to expect.

Of Mr. Montgomery's Spirit we have also something to say. His management of this personage, when created, deserves the highest praise. No idea could be more happy than that of making him a partaker of human sympathies, thereby relieving the subject of its abstract quality, and counteracting, in some measure, the inconveniences of his plot. But with respect to the wisdom of the creation itself, we think most readers will doubt. Poets are sometimes led to assume an hypothesis previous to indulging in any flights of fancy, from a notion (like that which used to be brought forward in defence of the unities), that a reader is most likely to yield his faith to their fictions, when the whole platform is imaginary, than when the improbable occurrences are supposed to happen to beings like ourselves, or in situations with which we are familiarly acquainted. Thus they would contend, that Shakspeare would have committed less violence upon the understandings of his readers, if he had represented the night revels of Oberon and Titania, and Puck, as occurring in the enchanted island of Prospero, than by making the scene of them an ordinary wood, where wild thyme, and oxslips, and violets, grew, and which was trodden in the day-time by the heavy feet of Bottom, the weaver. And by analogy, they would

argue, that Mr. Montgomery may allow more scope to the vagaries of fancy, after assuming a spirit to be the main actor in his poem, than if he had chosen a more homely subject, and had been his own sorcerer. But such an opinion is founded upon a very superficial view of human thought, and overlooks entirely the difficulty which the reader feels in surmounting the first effort of belief that is required of him. Undoubtedly when we have granted a poet his premises, we may grant him any thing else afterwards; but the concession is not worth having; it is a mere assent to the possibility of his narration, and at the furthest remove from that ready faith and lively interest which we yield to a poet who shows us, as through a magical glass, the very spots which we have seen a thousand times by the light of the natural sun, shining with unwonted radiance, and displaying beauties which seem always to have existed there, only that our "muddy vesture" prevented us from discerning them.

We have dwelt the longer upon these objections to Mr. Montgomery's subject, partly because they concern some of those principles in which the study of poetry is involved with the study of human nature, and partly because we were anxious to prove, that the little interest which, we fear, will be taken in this poem, is not owing to any want of power in its author, but simply to his erroneous judgment about the best method of exhibiting it. In spite of all these disadvantages, there are few persons capable of reading poetry who will not admire, and none capable of writing it who may not envy, such a passage as the following:—

'Once at high noon, amidst a sultry calm,
Looking around for comfort, I descried,
Far on the green horizon's utmost verge,
A wreath of cloud, to me a glad discovery;
For each new image sprang a new idea,
The germ of thought to come, that could not die.
The little vapour rapidly expanded,
Lowering and thickening till it hid the sun,
And threw a starless night upon the sea.
Faint gleamed the lightning, followed by no peal,
Dreary and hollow moans foretold a gale,
Nor long the issue tarried; then the wind,
Unprisoned blew its trumpet loud and shrill;
Out flashed the lightnings gloriously; the rain
Came down like music, and the full-toned thunder
Rolled in grand harmony throughout high Heaven,
Till Ocean, breaking from his black supineness,
Drowned, in his own stupendous uproar, all

The voices of the storm beside; meanwhile
A war of mountains raged upon its surface;
Mountains each other swallowing, and again
New Alps and Andes from unfathomed valleys
Upstarting, joined the battle, like those sons
Of earth—giants rebounding as new-born
From every fall on their unwearied mother.
I glowed with all the rapture of the strife.
Beneath, was one wild whirl of foaming surge,
Above, the array of lightnings, like the swords
Of cherubim, wide brandished, to repel
Aggression from Heaven's gates; their flaming strokes
Quenched momentarily in the dark abyss.'

Nor is the next less poetical:—

'These were but preludes to the revelry
That reigned at sunset; then the deep let loose
Its blithe adventurers to sport at large,
As kindly instinct taught them; buoyant shells,
On stormless voyages, in fleets or single,
Wherried their tiny mariners; aloof,
On wing-like fins, in bow-and-arrow figures,
The flying fishes darted to and fro;
While spouting whales projected watery columns,
That turned to arches at their height, and seemed
The skeletons of crystal palaces
Built on the blue expanse, then perishing,
Frail as the element which they were made of;
Dolphins, in gambols, beat the lucid brine.
Hues richer than the canopy of eve,
That overhung the scene with gorgeous clouds,
Decaying into the gloom, more beautiful
Than the sun's golden livery, which they lost,
Till light that hides, and darkness that reveals,
The stars, *exchanging guards like sentinels*
Of day and night, transformed the face of nature:
Above was wakefulness, silence around,
Beneath repose, repose that reached even me;
Power, will, sensation, memory, failed in turn,
My very essence seemed to pass away,
Like a thin cloud that melts across the moon,
Lost in the blue immensity of Heaven.'

To many critics these passages will no doubt appear defective in poetical diction, and this is what, in our minds, constitutes one of their greatest charms. As separate *morceaux*, there is only the passage we have marked in Italics which could make us wish them other than they are.—Admirably fanciful as descriptions of scenery, admirably literal as descriptions of the

poet's own feelings, and admirably chaste in expression, we do not know that any criticism could either exalt or depreciate their merit. The only fault we can find with these and many other parts of the poem is, that they are nearly as good when extracted into a review, as when forming portions of a work. This is not because the good thoughts are unequally yoked with indifferent ones. On the contrary, the contiguous passages to these we have quoted, are nearly as pleasing. But Montgomery's gems, though very pretty, are indifferently strung together. The thoughts, as we before observed, in each train always succeed each other in the proper order. But the different trains are not dove-tailed together with any thing like the same dexterity. The reader is always aware when the author's fancy has run itself out, and when it begins to flow afresh. Whole pages might change places without the value of the poem being materially affected by the transposition. These are indications that Mr. Montgomery is a very imperfect artist; yet on the whole, perhaps, this circumstance will not be unfavourable to his reputation, and will even make his poems more useful in improving the public taste than they would otherwise be. The authors of "Speakers," and "Elegant Extracts," are beginning to discover that they labour under great unpopularity with sensible men. And they have found that the reason of the dislike entertained for them is, the very inadequate and even false impression of celebrated passages, which their mode of selecting left upon the minds of these persons when children. For instance, the soliloquy of "To be, or not to be," a standing dish with all these compilers, is perfectly out of place in a volume of *excerpta*. It belongs emphatically to the character of Hamlet, and it is just as impossible to understand its meaning without knowing something of that character, as to comprehend a theorem in the sixth book of Euclid, without having read any of the previous propositions. In like manner the panegyric on Mercy, in the Merchant of Venice, can never be relished from any lips but those of the beautiful Doctor. The address of Satan to the Sun is, if possible, still more unintelligible, except in connection with the rest of the poem. Nearly all our relish for those passages is destroyed by the ill-timed use which is made of them as separate *morçeaux* to be learnt by heart. Yet, as long as the system of education continues, which treats the memory as the only faculty in children which is worth cultivating, such compilers will find a market for their wares, and it is almost dangerous to complain of the evil use they make of good poetry, lest, in revenge, they should fill their books with rubbish

which would still further degrade the national taste.* We are glad, therefore, that there are some good writers like Mr. Montgomery, whose long poems will bear dissection, and may be read with pleasure, as entire productions even after they have been conned over in fragments.

The most delightful portion of this poem is that which describes the beautiful creatures who give their name to the island.

After a lively description of the two elder Pelicans, who are at first the only tenants of the pools, we have the following account of their offspring, which needs no commendation of ours.

'Love found that lovely couple on the isle,
And soon surrounded them with blithe companions;
The noble birds, with skill spontaneous framed
A nest of reeds among the giant grass
That waved in lights and shadows o'er the soil,
There in sweet thraldom yet unweening, why
The patient dam who ne'er till now had known
Parental instinct, brooded o'er her eggs
Long ere she found the curious secret out
That life was hid within their brittle shells:
Thus from a wild rapacious bird of prey,
Tamed by the gentle process, she became
That gentlest of all living things—a mother,
Gentlest while yearning o'er her tender young,
Fiercest when stirred by anger to defend them;
Her mate himself the soft'ning power confessed,
Forgot his sloth, restrained his appetite,
And ranged the sky and fish'd the stream for her,
Or when o'erwearied nature forced her off
To shake her torpid feathers in the breeze
And bathe her bosom in the cooling flood,
He took her place, and felt through every nerve,
While the plump nestlings throbb'd against his heart,
The tenderness that makes the vulture mild;
Yea, half unwillingly his post resign'd,
When, home-sick with the absence of an hour,
She hurried back, and drove him from her seat
With pecking bill and cry of fond distress,
Answer'd by him with murmurs of delight,
Whose gutturals harsh to her were love's own music.

* If these collectors would condescend to extract short poems, there are plenty of good ones by authors of the present day. All Wordsworth's less elaborate and sublime compositions, such as "Ruth," "The Idiot boy," and above all, "The Kitten and the falling Leaves," are admirably adapted to the purpose.

* * * * * *
* * * * * *

Ere long the thriving brood outgrew their cradle,
Ran through the grass, and dabbled in the pools;
No sooner denizens of earth, than made
Free both of air and water; day by day
New lessons, exercises, and amusements
Employed the old to teach, the young to learn:
Now floating on the blue lagoon, behold them,
The sire and dam in swan-like beauty sailing,
Their cygnets following through the foaming wake,
Picking the leaves of plants, pursuing insects,
Or catching at the bubbles as they broke;
Till on some minor fry, in reedy shallows,
With flapping pinions and unsparing beaks,
The well-taught scholars plied their double art
To fish in troubled waters, and secure
The petty captives in their maiden pouche;
Then hurry with their banquet to the shore,
With feet, wings, breast half swimming and half flying;
But when their pens grew strong to fight the storm,
And buffet with the breakers on the reef,
The parents put them to severer proof;
On butting rocks the little ones were marshall'd,
Then by endearments, stripes, example, urg'd
To try the void convexity of heaven,
And plough the ocean's horizontal field.'

Once or twice in the course of this poem, Mr. Montgomery has been betrayed into vulgarities which so good and so experienced a writer has very little excuse for committing. *Bad* writers constantly find it necessary to season their compositions with coarse expressions and conceits, and *young* writers frequently indulge in them from pure wilfulness. Because they have been disgusted by the superficial criticisms of such men as Blair, who consider the external rules of composition all-important, they determine to consider them unimportant. If a phrase or an idea has been pronounced "mean" or "frigid" by the one, the other immediately conceive that it must be very happy and striking, and transport it into their pages. But Mr. Montgomery is above these absurdities. He knows perfectly well that these rules are in themselves too reasonable to be neglected; that by whomsoever they may have been propagated, they are recognized, and were originally laid down by philosophical writers; and that of all methods of obtaining a reputation for higher merits, an inattention to subordinate merits is the most illegitimate and preposterous. We had marked a few instances of these offences, but the task of minute

criticism is a very ungrateful one, and we prefer leaving them to be detected by the author's own discrimination. In the following lines his very lively fancy has betrayed him into a more venial sin of this kind :—

> 'Next morn, in mockery of a storm, the breeze
> And waters skirmished; bubble armies fought
> Millions of battles in the crested surge
> And when they fell, *all covered with their glory,*
> Found in white foam on the cerulean main
> Paths like the milky way among the stars.'

The poem, after the Spirit's departure from the island, is perhaps less interesting. Yet there are some descriptions of much greater power, than in any in the former cantos. The view of savage life, in canto seven, is overwrought, but exhibits proofs of vigour of writing which are rather rare in Mr. Montgomery's works; and the condition of the women in a barbarous society, is painted with the more vigour, because it is painted from reality. The following passage which concludes the poem, is an example of amiable and affecting egotism, delightful in itself, and much more delightful because it is the only allusion which the poet makes to himself throughout the poem :—

> 'Vain boast! another day may not be given,
> This song may be my last; for I have reached
> That slippery descent whence man looks back
> With melancholy joy on all he cherished
> Around, with love unfeigned, on all he's loving;
> Forward, with hope that trembles while it turns
> To the dim point where all our knowledge ends.
> I am but one among the living; one
> Among the dead I soon shall be; and one
> Among unnumber'd millions yet unborn;
> The sum of Adam's mortal progeny,
> From Nature's birth-day to her Dissolution.
> Lost in infinitude, my atom life
> Seems but a sparkle of the smallest star
> Amidst the scintillations of ten thousand
> Sparkling incessantly; no ray returning
> To shine a second moment, where it shone
> Once, and no more for ever; so I pass.
>
> * * * * * *
>
> As I go down into the vale of years;
> For the grave's shadows lengthen in advance,
> And the grave's loneliness appal my spirit,
> And the grave's silence sinks into my heart,
> Till I forget existence in the thought
> Of non-existence, buried for awhile
> In the still sepulchre of my own mind,

Itself imperishable—ah! that word,
Like the archangel's trumpet, wakes me up
To deathless resurrection. Heaven and earth
Shall pass away, but that which thinks within me,
Must think for ever; that which feels, must feel
I am; and I can never cease to be.

There are parts of the Pelican Island which we might except against as false in point of sentiment. But we forbear, first, because we do not think the review of a poem is the best place for discussing such topics; and secondly, because there is in Mr. Montgomery's writings a character of sincerity and feeling which would atone for a great many errors. His principles, whether right or wrong, are still principles, and not mere opinions adopted from interest, or reverence for the authority of other men, and, as such, will command the respect of those who act and speak upon principles of their own, and know how few there are who do so.

The poems which fill up the volume do not deserve to have many observations wasted upon them. Unlike the majority of his contemporaries (many of whom will be known to posterity only by their shorter effusions) Mr. Montgomery succeeds best in his most lengthy and elaborate compositions. When he attempts "occasional verses," he writes as if his reputation did not depend upon the success of that effort; as if he found it pleasant to be occasionally tame and unedifying. Some of these verses depend for all their interest upon the point of the last line. Sometimes, in the midst of very dull [illegible] the thought "trembles out into a star," and becomes a pretty object in itself, though not brilliant enough to enlighten a whole poem. Sometimes the ideas are so trifling, that we wish their owner had kept them to himself. Sometimes we [illegible] wish he had taken more pains to make them [illegible]

There are exceptions to these remarks, and the poem which contains a review of Mr. Montgomery's [illegible] poems is one of them. Some of the paragraphs in the [illegible] (especially the last) seem to be [illegible] they certainly establish their [illegible] subjects of his generous and eloquent [illegible].

'Let Southey sing of war [illegible]
The pride of battle, [illegible]
The glory and the [illegible]
Of nations barbarously [illegible]
Of realms by patriot [illegible]
Of blood insanely [illegible],
And millions sacrificed to [illegible]
To make one little mortal great.'

'Let Scott in wilder strains delight
To chant the Lady and the Knight,
The tournament, the chace,
The wizard's deed without a name,
Perils by ambush, flood, and flame,
Or picturesquely trace
The hills that form a world on high,
The lake that seems a downward sky.'

'Let Byron with untrembling hand
Impetuous foot and fiery brand,
Lit at the flames of hell,
Go down and search the human heart
Till fiends from every corner start
Their crimes and plagues to tell.
Then let him fling his torch away,
And sun himself in heaven's pure day.'

'Let Wordsworth paint in mystic rhyme
Feelings ineffably sublime,
And sympathies unknown;
Yet so our yielding breasts enthral,
His genius shall possess us all,
His thoughts become our own;
And strangely pleas'd, we start to find
Such hidden treasures in *our* mind.'

'Let Campbell's sweeter numbers flow
Through every change of joy and woe,
Hope's morning dreams display;
The Pennsylvanian cottage wild,
The frenzy of O'Connor's child
On Linden's dreadful day;
And still in each new form appear
To every Muse and Grace more dear.'

ART. III.—*History of the Commonwealth of England. From its Commencement to the Restoration of Charles the Second.* By William Godwin, vols. i. ii. iii. 8vo. London. Colburn. 1824, 1826, 1827.

"IF the design were not too multifarious and extensive," says Dr. Johnson, in his 45th Idler, "I should wish that our painters would attempt the Dissolution of the Parliament by Cromwell. The point of time may be chosen when Cromwell, looking round the Pandæmonium with contempt, ordered the

bauble to be taken away; and Harrison laid hands on the Speaker to drag him from the chair."

It was neither a picture, nor a series of pictures, but a *History* which was wanting to the epochs of the Commonwealth. It is perfectly astonishing how small and inadequate a share of that attention which is now at length devoted by intelligent readers to the causes and commencement of the civil wars, has hitherto been fairly carried on to the crisis we intend to review. Until the publication of Mr. Godwin's third volume, no accurate and equitable history had appeared of a period by far the most important in our annals.* It has been truly said by that author, that "the men who figured during the Interregnum were, immediately after the Restoration, spoken of with horror, and their memoirs were composed after the manner of the Newgate Calendar. What was begun from party rage, has been continued from indolence. No research has been exercised; no public measures have been traced to their right authors; even the succession of judges, public officers, and statesmen, has been left in impenetrable confusion!"

From such treatment of the facts of history we might infer that scant justice had been done to its philosophy, which has, indeed, found little enough place in most *English* histories of revolutions. Such narratives have commonly been composed by the mere pens of all work in the pay of aristocracy; or at best by uninvestigating, elegant triflers, who, if they write without party-spirit, write also without principle. What sort of history the former class of writers will be able or willing to produce is conceivable without much effort. Events, their causes and their consequences, will be thrown into designed confusion; the characters of the best and of the worst, of the earliest and the latest, revolutionists will be identified in order to be doomed together; the paroxysm and the madness of a moment will be treated as the temper of whole years and generations; no principle appearing in the mighty maze, unless the mean ambition to disgust and terrify, by the grouping of unnatural figures, and the artifices of unnatural colouring. The latter school of writers show a little more taste in their abuse of the historical easel. Their language for the most part is decent, and they do not absolutely lose sight of the great mass of men

* We mean no disparagement to the labours of Mr. Brodie, whose History formed the subject of an article in one of our early Numbers. But his principal design was to expose and rectify the mis-statements of Hume, and other historians of the character and reign of Charles I. To the period, strictly speaking, of the *Commonwealth*, he has not given two hundred pages.

in their intentness on a few prominent characters. They seldom pursue any single individual with an excessive heat of praise or of blame. They seldom pass over any party in the state as utterly beneath their notice. They see as much of all things as a single glance can show them; and at every single glance they generalise. Like the careless Polytheist, whose Pantheon would accommodate new deities to any extent, of whose existence he neither knew nor cared for the evidence; for every new aspect of affairs, these writers have a new form of words, which they utter with as much easy confidence, as if it involved a most profound explanation of the phenomena for which it was invented. "The unaccountable, yet striking, varieties of enthusiasm and superstition;" "the ungovernable passions of the multitude;" "their religious and political fanaticism," afford in their opinion a complete solution of the problems which present themselves in every popular struggle.

In truth, the passions of the multitude are not so properly religious or political, as *plebeian*. We shall hardly be suspected of employing this epithet in any invidious or insulting sense. Excluded from the sympathies of those above them, and debarred from every regular and sober public function, the multitude is reduced of necessity to organise its own combinations—to make itself respected by numerical force, and feared by ostentatious ferocity. Oppress—keep ignorant—the mass of mankind—you will not destroy its physical strength, but you will turn that strength towards error and excess; you will have a fanatic conventicle, or a Jacobin club. You will have no *people*, it is true; but you will full surely have a *populace*—a populace arrayed against the progress of civilization, from which it has received no benefit—denouncing all the horrors of this world or the next, the penalties of malignancy, or *incivism*, against the wise, whose reasonings they do not understand; and the rich, in whose advantages they do not participate.

Will the middle classes ever learn respect for themselves—will they ever learn to vindicate their rank in the Commonwealth? Repelled on the one hand by aristocratic haughtiness, on the other by plebeian distrust, will they ever quell the former by a frank disdain—the latter by a clear sincerity? While the predominance of rank yet endures, are they contented to be classed among its humblest adorers—when that falls, are they resolved to have deserved no share in the confidence and affection of the people? This has been the rock on which have hitherto split the fairest hopes of political improvement in Europe. Contemning the many, and contemned by the few, in the infirm old age of aristocracy, the middle class

has tamely suffered all its moroseness; in the inevitable hour of democratic ascendancy, the middle class has almost always found itself in a false and ineffective position. It has lost its beneficial and natural influence for want of having claimed it sooner.

At the period, however, which is now before us, it would be unjust to charge upon the middle class, so recently acknowledged as existing, the imperfect state of national education, and the consequent abortiveness of the first grand struggle for a share of the nation in its government. That state had been determined by a higher, in those times, an irresistible, agency. When Queen Elizabeth had finished what her majesty was pleased to denominate the Protestant Reformation, it became with her a matter of excessive apprehension, lest the import of the term should further suggest some wild and wicked theory of national enlightenment. Our readers are aware of the tyrannical precautions which were resorted to against this apprehended calamity; of these the most remarkable was, the systematic discouragement of original discourses *in the church itself*: the general substitution of a printed book of Homilies, and the consequent entire preclusion of any new information or instruction being communicated from the clergyman to his assembled flock —the whole service being cast into a set and rigid form, and the minister reduced into a reading-machine. The orthodox ignorance and dulness which was by such means attempted to be rendered permanent, although utterly insufficient to preserve the people from the wholesome fermentation of the following reigns, was yet unhappily but too efficacious in debasing the character of those heresies, which the roused spirit of inquiry could not fail to generate. Of their origin and extent, it is singular that a clearer, though a hostile, view should have been taken by a foreigner than by the far greater number of our native historians. "Ne croyez pas," says Bossuet,* "que ce soit seulement la querelle de l'épiscopat, ou quelques chicanes sur la liturgie anglicane, qui aient ému les communes; ces disputes n'étaient encore que de faibles commencemens, par où ces esprits turbulents faisaient comme un essai de leur liberté; mais quelque chose de plus violent se remuait dans le fond des cœurs; c'était un dégout secret de tout ce qui a de l'autorité" (authority over opinion: in other words, the power to persecute); "et une démangeaison d'innover sans fin après qu'on en a vu le premier exemple."

Whatever be the tenets of a hierarchy, the *certainty* and *im-*

* Oraison Funèbre de la Reine d'Angleterre.

portance of such tenets are always carefully impressed upon the popular mind. Hence, whenever, in the progress of intelligence, the people see reason to adopt new doctrines, the twin ideas of *importance* and *certainty* still unhappily adhere to their imaginations, although they come to be associated with a new creed in the place of an old one. Hence it happened, at the period we are now treating of, that the Presbyterians, who were the earliest revolters from the Church, retained an ample share of that intolerance which they had imbibed from her precepts and example: while the various sects of Independents, being of later growth, having separated themselves more completely from established modes of faith and discipline, and having equally experienced the persecuting spirit of Episcopalians and of Presbyterians, resolved to lift the standard of religious equality. Hume acknowledges, that "of all Christian sects, this was the first, which, during its prosperity, as well as in its adversity, always adopted the principle of toleration." But Hume ascribes the adoption of this principle entirely to the frenzy of enthusiasm, which scorned all limits of existing creeds.

In Scotland, the spirit of the Reformation had been, if possible, more intolerant and exclusive than in England. A Catholic sovereign had resisted innovation; and the appetite for reform and plunder had arrayed the nobility against the government. The nobility had triumphed with the aid of the people, whose passions had been urged into frenzy by their clergy; a frenzy which the Protestant aristocrats long found it convenient to encourage; which prevailed long after they had ceased to encourage it. It is curious to remark with what comparative submission the nobles acquiesced in the introduction of the bishops into the Scottish parliament, by James I, in which they could perceive a mere invasion of *principle;* but how fiercely, when the son of that monarch proposed the restitution of the *church-lands*, they set the royal will at defiance. On the former occasion the clergy and the people had been left alone to fight their own battles; but on the latter, when the *substance* of the nobles was in danger, they were instantly awake to the importance of *forms*. Had such particulars been adverted to by Hume, he would scarce have needed to expend so many elegant phrases on "the supernatural and unaccountable nature of the religious spirit, when it mingles with faction."

While the Scottish clergy had adopted all the turbulence of the nobles, the nobles, to their bolder and more natural vices had superadded all the cant of the clergy; so that it is not easy to conceive a more detestable union than was effected by the amalgamating process of interest between the worst and

most apparently incompatible ingredients of the aristocratic and the priestly characters. Of the people we should blush to speak harshly; their ignorance was not their crime; it resulted from the interested efforts to mislead, made by those who had in charge to instruct them. Hence, the odious shape, if shape it can be called, of Scottish policy, throughout the whole civil war. All that was heroic in the struggle must be placed to the credit of the people, as was afterwards made plain by their unaided opposition to the tyranny of Charles II; all that was vacillating, mean, and wicked, to those evil counsellors and worse commanders, the Scottish clergy and nobility of that period.

The English Presbyterians stood, of course, much higher both in character and talent than the Scotch, in proportion as the kings, assisted by the Commons, had succeeded better in pulling down aristocratical dominion; and as the body of the people had, in consequence, advanced beyond their neighbours in civilization. At the time of a revolution, the body of the people obtains a degree of preponderance proportioned to its moral intelligence. It is then that those ideas of political importance, which have been contemptuously allowed, perhaps, to serve a temporary purpose, encouraged to take root in the popular mind, come at once to be regarded with a forced respect. The countenance which had been afforded to the English Puritans by some men of high rank, from the time of queen Elizabeth downwards, had originated in their desire of securing the support of a powerful party against the Church of England, which, as Protestant, was labouring with much zeal to regain the possessions which the court had taken from her as Catholic. Though these great men affected the political opinions, they had little sympathy with the moral or religious feelings, of their party; in which, indeed, they hardly pretended to participate, until compelled, at least outwardly, to imitate the austere example of its popular members, on pain of being practically taught the extent of the new power of the people. As in France, at a later period, the democratic modes of dress and of language, which had been originally set by the young men of rank and fashion, were forced back on the inventors, when improved to the utmost by the taste of democrats in earnest

The forcible conciseness of the following description, and its tendency to illustrate our foregoing observations, induce us to extract it from amongst many passages of equal merit in Mr. Godwin's first volume:—

'This topic will be best understood, if we call to mind the several steps of gradual descent and diminished authority, of church

government, as it has been practised in different ages and countries professing Christianity. The highest and most perfect is that of the Roman Catholic religion, as it was at the time that its power was most uncontrollable. This is a system of unmingled and absolute despotism, teaching men what they shall speak and think upon subjects of religion, allowing no variation or diverging from the established standard, shutting up from the laity the books in which the origin and laws of Christianity are recorded, promulgating an *index expurgatorius* of all other books, calling in the aid of the faggot, and stake, and the *auto da fe*, to enforce its decrees, and binding the whole with the awful and tremendous sanction of auricular confession. Popery, also, had the additional resource of binding all Christendom together as one man; and it had the advantage over all other forms of Christianity, in the masterly and costly way in which it addressed itself to the eyes, and ears, and the nostrils, of its disciples.

'The second form of church-government, partaking of many of the advantages of the Roman Catholic system, is that of diocesan episcopacy. It aims, though at a distance, and with a diminished flight, at the same splendor; it accumulates its emoluments and its honours, in somewhat of a similar manner. It issues its canons and decrees, it fulminates its excommunications. Like the church of Rome, it is rigorous and untemporising. It denounces schism as, perhaps, the greatest of all offences. And it punishes all deviation from its rules, at least it did in the times of which we are treating, in somewhat of the same manner as the church of Rome, with this difference, that where the Pope and the Inquisition burned its victims alive, the Church of England confined itself to the lash, the slitting of noses, or the cutting off of ears.

'Next comes the Presbyterian system, not less exclusive and intolerant, and impressed with no less horror of the blasphemy and perniciousness of sects, than the former. Its chief distinctions are, the comparative moderation of its emoluments, and the plainness of its garb. The clergy of the Church of Scotland were habited with something of the same unambitious sadness, as we see in paintings of the fathers of the Inquisition. But this is in certain respects a disadvantage. He that lords it over me, and would persuade me that he is not of the same ignoble kind as myself, ought, perhaps, to be clad in robes, and covered with ermines and gold. It is some mitigation of my sufferings. I should be glad to be deluded and dazzled to the last. It seems natural that human beings should prefer, like the widow of Benares, to die amidst the clangour of trumpets, and the soft breathing of recorders, to the perishing by the deformed and withering blow of undisguised cruelty.

'The system of the Independents has been already described; its generous spirit of toleration, and fearlessness of sects, come in beautiful contrast with the systems already described. It demands no other liberty for itself, than it is willing to yield to all others.'

The scheme of a republic would appear to have been suggested to the leaders of the Independents, much less by any

preconceived ideas of the abstract excellence of that form of government, than by practical and protracted experience of the utter impossibility of treating with Charles, seeing the *falsehood on principle* which marked his whole conduct; and of the scarcely less impracticable nature of the Presbyterians, made up of aristocratic and religious exclusiveness. The rights of conscience, and of free discussion, appeared about equally endangered, whether the timid and interested opponents, or the fierce and bigoted partizans of the monarch, should finally obtain the ascendant. The only alternative which seems to have occurred to Vane, Ireton, Cromwell, and the rest of their coadjutors, whether in the parliament or in the army, was to separate their cause from that of either party, and to look sternly forward through the fall of both, to the erection of a pure republic.

To judge of this bold enterprise by ordinary rules would be a very gross injustice to its authors. In a country where the laws are respected, and the people are contented, or, at least, quiescent, it is justly held a high crime to endeavour to effect a sweeping alteration of the government, except by the pacific force of public discussion. But when the sovereign has provoked a mortal struggle with his subjects, and has taught them, by experience, his equal disregard for oaths and treaties, in peace or in war, two laws of action only can remain to the citizen, the *interest* of the people, and the *will* of the people, the latter of which must be respected for the sake of the former. Not upon obedience to these primary laws can be justly charged the evils of the contest—but on the intolerable ante-revolutionary regimen which alone could have produced revolution.

That the civil war was rendered absolutely necessary by the tyranny of Charles I is now acknowledged by all those, at least, whose opinion is of any value. That the first decisive triumph of the Independents, the passing of the Self-denying Ordinance, was advantageous to the cause for which hostilities were entered into is, we think, almost equally evident from a glance at the circumstances under which it was passed.* It was passed at a

* The following remarks of Mr. Godwin, on the subject of the Self-denying Ordinance, are particularly well worth attention:—

'It has been commonly imagined, that the Independents, after having carried a measure so full of boasted disinterestedness, acted a part directly contrary to their professions, smuggled in one exception after another, Cromwell the first; enriched themselves with the spoils of the nation; and silently and imperceptibly antiquated the law which had, at the moment, been their great instrument for defeating their adversaries of the Presbyterian party.

'But this way of stating the question is by no means exact. The original Self-denying Ordinance, as it was called, directed that no member of either

time when the Presbyterians were in possession of the command in the army, and of majorities in both houses of parliament. Strong indeed, and imperious must have been the popular sense of the necessity for such a measure, since, notwithstanding that it was at first rejected by the Lords, it made its way, in another shape, through that House, after not only twice passing the Presbyterian Commons, but after having also been discussed and approved by the Presbyterian commissioners from Scotland. In fact, some change in the officering of the army, and some check to the too general desertion of the cause among the men of high rank, was indispensable. Holland, Bedford, and Clare, had turned traitors. Northumberland had retired to his country-seat, to watch and be guided by the king's reception of the above-mentioned trio of renegades. Manchester was true to the parliamentary cause, but timid and procrastinating: easily led, and easily frightened. Essex had the wavering and versatile character

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House of parliament, should, during the present war, hold any office, civil, or military, such office being conferred by the authority of both or either of the Houses. *This ordinance was defeated in the House of Lords* by the machinations of the Presbyterians, and *never passed into a law.*

'A second ordinance, which was called by the same name, was brought in a short time after, and was attended with a more successful event. The enactment of this ordinance was, that every member of parliament was hereby discharged from whatever office, civil or military, *that had been conferred* by the authority of parliament. The former edict was prospective, and had more of the ordinary character of a law; the second prescribed something immediately to be done, and no more.

'What was the cause of the striking difference between the first and the second Self-denying Ordinance, must be a matter purely of conjecture. It is not improbable, that some of the great leaders of the Independent interest began, in this interval, to suspect, that the advantage of permanently separating the legislative character, and that of an officer, civil or military, was more specious than real. Besides, as their adversaries had contrived to defeat their measure in the Upper House, they felt less delicacy towards them, and constructed an edict which more plainly pointed at the *individual change* in the public service, which they held to be immediately required. The new law, therefore, was a temporary expedient, and the general principle was left as before."—Vol. ii. p. 41.

There is not one syllable of truth in Lord Clarendon's account of this transaction, which Hume has inserted in his history. He has described a public fast to have been held as a *preparatory* measure to the introduction of the motion for bringing in the ordinance—*which fast was celebrated nine days afterwards.* He has forged a debate which he pretends to have taken place the *day after the fast*, in the House of Commons. And in this debate he has named Nathaniel Fiennes and Henry Marten, among those "who spoke more and warmer in favour of the Self-denying Ordinance, than those spoke who opposed it;" though Fiennes was at that time in a state of voluntary banishment on the continent, and Marten was an expelled member of parliament, and was not restored till two years after. 'It is thus,' says Mr. Godwin, 'that history is written!'

so well becoming an aristocratic *Friend of the People.* He had kept up intelligence with Holland, Clare, and Bedford: "he had played fast and loose with the duties of his station, and the fidelity he owed to those by whom he had been placed in an office of trust." Yet he scorned direct proposals of desertion or betrayal, and only virtually deserted and betrayed the cause, by retarding its triumph in the field and the council. What he most dreaded was, the rout of the enemy against whom he had been sent to contend—what he least wished was, the "unconstitutional" triumph of the "men with whom he generally acted."

The successful termination of the war by the army under the new model only tended to exasperate and bring to a head the dissensions of the rival parties—as the military triumph of the Independents enabled them to set at defiance the parliamentary power of the antagonist party. Were we writing the apology of the Independents, we might dwell upon the insolent precipitation with which the parliament voted the disbanding of the army on the pretext that the war was at an end, and that there was no further occasion for an army. We might prove (what was proved within a year, by the rising of the royalists all over the kingdom), that an army was as necessary as ever, for the security of the triumphs which had been won for the people. We might expatiate on the inconsistency and injustice of the Presbyterian pretexts for disbanding the army which had won those triumphs (without even the payment of arrears) at the very moment when they were actually looking out on all sides for new recruits and new soldiers. But we prefer to place the argument on higher ground. We agree with Mr. Godwin, that

"The most material question is, to consider what sort of a party had for several months past engrossed to themselves the direction of the measures of parliament. It was a party that in point of religion was Presbyterian; and that, in concert with the Scots, had resolved that God should be worshipped only in the precise form that their system prescribed. They were earnest to put down all separate congregations. They had originated a law to extinguish heresy and blasphemy by the gallows. It is, therefore, fair to say, that the English nation had gained very little by the exchange of the Episcopalian for the Presbyterian system. In politics the temper of this party was of the same cast as it was in religion. Its leaders were rich men, and closely allied to some of the most eminent of the nobility. They were the friends of privilege, and were firmly persuaded that the rich and great are entitled to dictate to the rest of the community, collectively and separately. They hated the encroachments of royalty, because these encroachments interfered with their privileges; but they hated not less the fearlessness and masculine temper of mind which was

growing up in the middling and lower orders of the community. The generous and animated tone, therefore, which pervaded the present generation of Englishmen, would be neutralized and made useless under their direction: nay, they would be careful, as soon as possible, to make the causes of the present excitation forgotten, and to bring things back into the dull and lethargic course which had marked the earlier periods of our history, and which was still prevalent in Scotland. Instigated by these considerations, they relied much on the alliance of the King to carry their projects into effect. Last year they had voted propositions to be sent to him for his entire acceptance or rejection, refusing all treaty, and alleging that his ill faith rendered all attempts at negotiation in the highest degree perilous. Now they adopted a different policy, and voted that the King should be brought near to the parliament, that their correspondence with him might be the less interrupted.'

Proceeding on the principles we have already laid down as the only rules of action in a time of revolution, what ought to have been the conduct of a citizen at this crisis who found himself with arms in his hands? Our unhesitating answer is, that no vote of parliament should have prevailed with him to lay his arms down. All who do not choose to be misled by mere phrases, "the counters of wise men, and the money of fools,"* must perceive, that as the parliament had ceased to deserve the reverence due to a popular representative, so the army bore a very different character from a modern horde of mercenary soldiers. Men who fought as volunteers *against* the monarch in whose service they were nominally engaged to fight, had a stake in the game which well warranted their resolution to enforce fair play in their partners. They had the decisive plea of Waldemar Fitzurse in the romance,† when, being haughtily told he was retained as a follower, and not as a counsellor, he replied, "those who follow your grace in the paths which you tread, acquire the right of counsellors; for your interest and safety are not more deeply gaged than theirs."

But though we justify the soldiers in retaining their arms, we are not obliged to justify the use which they made of them. We quarrel with their *ends*, and not their *means*. Had the seizure of the King by cornet Joyce, the expulsion of the eleven members, and the purge of the House of Commons, been made subministrant to the dissolution of the (too) Long Parliament, and the more equal representation of the people, which were the objects held out by Fairfax as motive principles of the army's interference, we can see no criminality in the acts themselves, considering the nature of the crisis, and the conduct of the opposite parties.

* Hobbes. † Ivanhoe.

Our opinion of these acts must be decided by our judgment with regard to the intentions of their authors, and the ultimate ends which they proposed to obtain.

We shall take for granted, what we really believe, that the Independent leaders, with a few base exceptions, were thoroughly sincere in their intention of conferring on their country a republican government. We shall endeavour to divest ourselves of the universal prejudice against an experiment which has been tried and condemned

"By the great touchstone of desert, success."

Abandoning the vantage-ground on which we stand as spectators of the issue of the undertaking, we shall endeavour to pronounce upon it *a priori;* and to determine, from the signs of those times, whether the views of the republicans were right or wrong.

We think they were wrong. That very state of a nation which affords a warrant for the *necessary* steps of revolution, ought to warn its leading spirits from indulging one eccentric or uncalled-for movement. Society is cast loose from its accustomed holdings, and it therefore behoves them to introduce no additional element of insecurity into the troubled mass of public affairs. The people are bewildered with the novelties around them, and it is therefore inexpedient to throw out fresh novelties. At such a crisis, what is fittest to be aimed at is *non quod optimum, sed e bonis quid proximum.* What is needful for imparting to the body politic the vital principle of representation ought to be done without a single hour of doubt or delay; but if removal of the old exterior forms of the government be unpopular, it ought not to be attempted. Many an old nuisance should be left unabated until the coming of a more convenient season. The government of a country, like its soil, can but be gradually and slowly improved. Institutions which, past memory, have shadowed the land with a forest-like and dateless sway—a subject-mass, whose hopeless apathy has lain spread, like putrid waters, in a still yet living level of stagnation—the stalk and roar of tyranny—the venomous coil of priestcraft—the marsh-light of perverse philosophy—all these, aye, and an atmosphere of moral pestilence, must be encountered in the path of improvement: all these must be extirpated, or stripped of their noxiousness, ere Man shall have achieved his destiny. But all these are not to be subdued at once. A district just delivered from the gross wants of barbarism is not at once apt to glide into refinement and delicacy. The first requisites of a wholesome political existence ought first to be cared for, and after-

wards, the superfluities. All can estimate arrangements for their food and lodging, but all cannot instantly be brought to understand the dictates of elegance and the rules of proportion. Of the people of England, at the time we are treating of, a large majority desired a representative government: of the same people, at least two-thirds, by the account of the republicans themselves, were averse to the scheme of a republic. What else could be expected? "It was almost six hundred years that England had been governed by an uninterrupted succession of kings from the Norman Conquest; not to mention that monarchy had been regarded as an essential part of its political condition under the Saxons, and even from the time that Britain had ceased to be a Roman province. Man, and generations of men, are not links broken off from the great chain of being: they are not like some of the inferior animals, having no opportunity of intercourse with those that went before them, and indebted for their systems of action only to their internal constitution and the laws of the universe, and not to imitation. Generations of men are linked and dove-tailed into each other. Our modes of thinking, our predilections and aversions, our systems of judging, our habits of life, our courage or our cowardice, our elevation, or our meanness, are in a great degree regulated by those of our immediate ancestors." The nobility, the lawyers, and the clergy, as *classes*, were averse to all reforms and reformers: was it wise, for the sake of a republic, to add to these malcontents two thirds of the people? It is one thing to reconstruct the whole machinery of government, and another thing to set it in motion; with allowance for all probable resistances—for the weakness of material and the risk of explosion—for the inevitable blunders of inexperienced hands—and for the more destructive malice of the men of routine, who apprehend that the new machine will throw them out of work.

'The great statesmen,' says Mr. Godwin, 'who guided the vessel of the Commonwealth at this time (A. D. 1649) began seriously to ponder the consequences of dissolving the parliament, and originating another by a general and equal election. They had bought the present state of England at a dear price, with struggles not to be paralleled, against the powerful parties of the Royalists and the Presbyterians. They had consummated the death of the King, a virtuous and heroic act in their opinion, a crime of the most flagitious nature in the judgment of the parties that opposed them. If the present system were suddenly overturned, the persons who had achieved this deed would be consigned to the hands of the public executioner. They had established a republic without King, or House of Lords; the only government in their opinion worthy of the allegiance and support of men arrived at the full use of their understanding. They

felt in themselves the talent and the energies to conduct this government with success. They wished to endow it with character, and gain for it respect. Having shown their countrymen practically what a republic was, they proposed to deliver it pure, and without reserve, into their hands, to dispose of as they pleased. This was their project.'

That this project was sincerely entertained, is credible, and we are seriously inclined to believe. That the course adopted by the leaders of the parliament was the only one, after the decisive act of regicide, consistent with their personal safety, is certain. But, however pure might be their public intentions, and however imperative their personal fears, there were several unfortunate ingredients in their plan of provisional administration which threatened, what they finally produced, a total loss of the anticipated grand result. When a government is guaranteed only by a soldiery, the question must occur to every rational mind, "Qui gardera les gardiens?" But the civil sanctions which were added to the Commonwealth will be found little better than the military.

There are parts of every mixed constitution, to which, as offering some apparent security against the worst extremes of depredation and oppression, the people form a very strong attachment; and any attempt at alteration or removal of which, is certain to excite a very general irritation. Of these, the privilege of parliament had served as a rallying point at the commencement of the civil contest; the short duration of the legislature, and the trial by jury, were considered as of equal importance. Every one of these was disregarded by the Commonwealth's-men. They had purged the House of Commons when it crossed their views. They still prolonged the sittings of the much-libelled Rump, because they dared not stand the trial of a popular election. And, in the vain hope of stifling opposition and obloquy, they substituted high courts of justice for juries in the trial of political offences. The effects of this policy, in still further alienating the people from the cause of the Commonwealth, were too extensive to be followed out here; but may, in some degree, be gathered from a very brief account of one of those notorious personages, who are sure to rise in every civil contest, lest peace and order should return too soon.

John Lilburne was a member of that class of politicians whose talents seldom more than half emerge from obscurity, under a government either wise enough to respect popular prejudice, or strong enough to meet it with a sort of defiance. Where both these qualities are in any degree wanting, such a person swells at once to the dimensions of an organ of the public opinion. The very vices of his character and intellect which,

in other times, would have exposed him to well-merited discountenance, and to still better merited neglect, are precisely those which make him universally popular. "He feared no man, and he reverenced no man. His comprehension in politics was of the narrowest sort; but that very circumstance tended to make him proceed right onward, without misgiving or doubt. He had enough of religion to induce him to value himself as a saint, the favourite of the Author of the universe. He prided himself upon showing a sovereign contempt for all those decencies and distinctions that society is accustomed to regard with deference." Yet this man, the William Cobbett of the seventeenth century, ignorant, or, at best, superficial, in every department of political science, incapable, through narrowness of mind, of comprehending the extent of any one great question, and betraying the most constant and disgraceful contrast between his public professions and his public conduct; this man was a more popular pamphleteer than Milton; this man could thwart, harass, and insult, the counsels of Vane, of Ireton, and of Cromwell. He was watched, prosecuted, persecuted. A new law of treason was enacted expressly to include his practices. When his destruction upon public grounds had turned out impracticable, though neither in writing, nor in word, nor in deed, had he kept any measures with the government, a mere family and private question was laid hold of for the purpose by the parliament, and he was sentenced to banishment for life: if he returned, to suffer death as a felon, which judgment was confirmed by act of parliament. He returned, of course, or he had not been John Lilburne. He was tried upon the act, and acquitted. In short, his whole life was one unyielding struggle with a government, abroad the most victorious, at home the most vigorous, energetic, and resolute, that had ever ruled the destinies of England. But England had a people as well as a government: and this is only one example, among many, of the weight which that people loves to throw into the scale against power used for purposes of oppression.

Other lessons may be learned from a perusal of the History of the Commonwealth of England. Amongst these is an important phenomenon, which also marked the latest epochs of the French Revolution. This is the intrepid and determined resistance which, proceeding from assemblies only nominally representative, yet repeatedly forced the arm of the usurper to hesitate. There is not in history a more concentred and impressive remonstrance than the answer made by Bradshaw to Cromwell from the chair of the Council of State. Cromwell having entered the council-chamber, thus addressed the members who

were present: "Gentlemen, if you are met here as private persons, you shall not be disturbed: but if as a Council of State, this is no place for you; and since you cannot but know what was done in the morning, so take notice, that the parliament is dissolved." To this Bradshaw answered: "*Sir, we have heard what you did at the House in the morning, and before many hours all England will hear it. But, Sir, you are mistaken to think that the Parliament is dissolved, for no power under Heaven can dissolve them but themselves.*" And the same spirit animated Barebones' parliament,* the parliaments of 1654, of 1656, and of 1658. Is it credible that if any one of these assemblies had been owned by the people as its representative, Earth or Hell could have supplied a force sufficient to establish the usurper's violence?

Even the slight and rapid survey we have taken of this subject cannot fail to have suggested to our readers the reflection that, *if* our view be correct, the shower of obloquy, which has been pelting for a century and a half upon the memory of the men of the Commonwealth, has left their *real* faults and errors almost unvisited, and has principally fallen on those points of their conduct which either are indifferent, or positively meritorious. Of their reluctance to convoke a popular legislature, and their attempt to check the utterance of public opinion, comparatively little has been thought or spoken. Much less have their detractors treated them as ambitious or deluded partisans, than as an ignorant, ferocious set of canting fanatics, insanely or malignantly conspiring for the overthrow of all law, learning, and religion. Vague as are these charges, repetition has rooted them in the fancies of this indolent age, and they must not be dismissed with that degree of contempt which their unparalleled absurdity might seem to warrant.

Two sources of evidence are open to the world on the character of the political and religious Independents; the writings of their men of speculation, and the measures of their men of action. A very brief reference to both these sources will be quite enough to settle the above-mentioned charges.

When we have found the names of Ludlow, of Hutchinson, of Milton, among the branded apologists of Independency,

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* Hume, without the shadow of authority, stigmatizes Barebones' parliament as containing but a few respectable members, and as chiefly raked together from the dregs of the conventicle. Hear Whitlocke, whom Hume himself characterizes as the most candid and impartial writer of the period: "*It was much wondered at by some,*" he says, "*that these gentlemen, many of them being persons of fortune and knowledge, would at this summons, and from these hands, take upon them the supreme authority of the nation.*"

ejaculations of disgust have broken from us—Are works, then, such as these to be included in the *Index Expurgatorius* of orthodox readers? ticketted, and thrown aside as trash—sedition—blasphemy!

But our feelings have been even more passionately pronounced, on recalling to our minds all the pleasure and instruction we have derived from the perusal of an author whose writings it is fashionable to treat with contempt, as a parcel of "insane burlesques," whose views were so audacious and extensive, as to justify the spleen of Cromwell, and provoke the illegal persecution of a far more tyrannous police than Cromwell's. We are speaking of Harrington, a writer of whose learning and original genius none that ever read the "*Commonwealth of Oceana*," or the "*Prerogative of Popular Government*," can easily entertain a doubt; whose manly treatment of religious and political questions presents an admirable contrast with the forgeries of Clarendon, and the truly "doleful cant" of Dr. Gauden's Eikon; and whose name, as a political philosopher, only does not hold the very highest station, because under the Protectorate, when his great work was published, Truth could only show herself in the dress of Fiction, and under the *restored* LAWS OF ENGLAND, Truth could not show herself at all. So much for the men of speculation. Proceed we to the measures of the active leaders, under the three several heads of Law, of Learning, of Religion.

For Religion, its ministers were supported on the most liberal, not to say the most lavish scale, although deprived of every power to persecute. Nearly £.50,000 a-year from the sequestrated revenues of the ex-bishops, deans, and chapters, were added to the incomes of the preaching clergy. An ambulatory ministry was appointed for Wales, in addition to the clergy settled there; and a provision was even made for the ejected episcopalians, whom the presbytery, acting on its true sectarian principle (which in 1662 was turned against itself) had deprived of their livings without any compensation. For Learning, the Universities were amply encouraged. For Law, the abandonment of Norman-French, which had hitherto been the language of all legal proceedings—the abolition of the Court of Wards, of feudal tenures, of monopolies; the enactment of the writ of Habeas Corpus, are improvements which we *actually* owe to the Commonwealth.* The *further* law-reforms

* Observe the effrontery of constitutional lawyers! Blackstone (Comm. b. iv. ch. 4) asserts, that "In one and the same reign *(that of Charles II.)* our lands were delivered from the slavery of military tenures, our bodies from arbitrary imprisonment, by the *habeas corpus* act; and our minds

for which bills had been introduced when the Long Parliament was dissolved by Cromwell, are too multifarious to admit of our detailing them. They will be found, not in Hume's historical romance, but in the histories of Brodie and of Godwin. Suffice it to have said, that as in no former age had the reforms been ever dreamed of which were then effected, so no succeeding parliament has had capacity or virtue to fill up the noble outline which was then marked out.

Against authentic acts like these, it will not do to oppose a few foolish motions or extravagant harangues. Every party has its fools and fanatics; and doubtless the republicans were not exempt from these universal plagues of human sects and societies. We will not deny, moreover, that their leaders, for the most part, were distinguished by religious enthusiasm.† In the eye of sound reason, this admission neither cancels their services, nor stains their character. Intolerance, hypocrisy, not enthusiasm, are the bane of all religion, as of all morality. Sectarian zeal, that antisocial and disorganizing principle, was the character at no time of the Independents, at all times of their enemies and slanderers. Intolerance we have seen to have been derived from the precepts and example of the mother church, to the sects which first withdrew from her communion. Hypocrisy uncoiled her odious length in the benign and bright day of the Protectorate; dictated those indelible addresses to Cromwell from the clergy and the Universities, and gradually glided into all high places, a fit precursor of sectarian re-establishment. Under the *Protectorate*, not under the *Commonwealth*, though "that ignorant and imitative class," called historians, have thought proper to confound the two regimens together, "hipocrisie became epidemicall;"‡ the sacred scriptures, which had

from the tyranny of superstitious bigotry, by demolishing the last badge of persecution in the English law." No hint that all these evils were removed by the *Commonwealth*; that they *would have been* restored at the Restoration, if possible; that the loss of the feudal tenures was made up to the Crown by hereditary excise; that the worst abuses of the Court of Chancery were re-established; that whatever might become of the *badges*, Saint CLARENDON exerted all the *powers* of persecution, and enacted (by submission of the parliament) several most atrocious laws for their enlargement: witness the Act of Uniformity, Stat. 16, Car. ii. c. 4, and Stat. 17, Car. ii. c. 2.

† With those censurers of the Independents who have preserved any sentiment of truth and candour, sincere enthusiasm has formed the head and front of their offending. Even Dr. South, while complaining that the land had been pestered with "the frogs of this sect, and the lice of that, and the locusts of another," clearly speaks of them as *having*, not *assuming* the character of frogs, lice, and locusts.

‡ Memoirs of Col. Hutchinson.

witnessed against prelacy and presbytery, were abused for the apology of a yoke scarce less odious; and the people bore, with anger and disgust ineffable, the oppressions of a camp, where the religion of the soldier was a poor set-off against the rapine of the major-general—of a court where dwelt the pride without the grace of royalty—where "prayers were morality, and kneeling was religion."*

It is no mean evidence in favour of the conduct of the Commonwealth party, so far as we can judge of that conduct from a view of their ostensible measures, that Cromwell, who was principally interested in destroying the character of the two assemblies whose dispersion he had caused by violence, was not only unable to ground his accusations on any positive and authentic act of either, but had recourse to accusations the most opposite and inconsistent, in exculpation of his armed interference. For, whereas it is matter of history, that these two assemblies, notwithstanding the abrupt dissolution of the first, and the irregular and arbitrary nomination of the second, pursued the onward track of reformation with as much unity of purpose and vigour of execution, as if the former had dreaded no violation of its character as a national representative; as if the latter had succeeded to the functions of the former without the slightest reminiscence of its fate; yet Cromwell, who had long professed the same anxiety for the same objects which inspired the proceedings of these gallant insubordinates, accused the Rump parliament of corrupt delays, and Barebones' parliament of anarchical precipitation. To the falsehood and impudence of these assertions, why, it may be asked, was *contradiction* added? Because, on the dissolution of the former body, it was the *people* whose support, or, at least, neutrality, was needed; and the charges of procrastination and corruption are most apt to be successful with the people. But the pulse of the people having once been felt, and indicating calmness and indifference, the next step to monarchy was to dissolve Barebones' parliament, which, though nominated by Cromwell himself, displayed an inflexibly republican spirit. To crush this assembly, and calumniate it afterwards, he had need of other aid than the people's; and had the happiness to find a set of tools ready made. Every previous ally to his ambition had been purchased with assiduous falsehood, art, and management. When the parliament had been to be deceived, no postures of fidelity and obedience had been omitted. When the army was to be deluded from the cause it had fought for,

* Junius.

no fraud had been unpractised to remove its faithful watch-dogs.* Hitherto he had applied the pure intentions of others to the promotion of his own sinister objects. But now he had an easier task. He had to deal with intentions, which, in point of straight-forwardness, offered no painful contrast with his own—interests with which his own were placed, at this point of time, in most mathematical coincidence. He found in the *lawyers* and the *clergy* that support which (as classes) they have always rendered to any power, usurping or legitimate, which will but save their monopolies from the hand of reformation.

Here, then, is the fountain and the origin of that obloquy which has been poured upon the memory of the Independents with such unstinted and unceasing liberality. The lawyers and the clergy always talk of their privileges as identical with the objects which their functions were originally meant to secure; it is, therefore, quite in character to brand all those who would offer to restrict those privileges as enemies to all law, learning, and religion. That a century and a half should not have tired these classes of calumniating the noblest men and times in our history, need excite small surprise, if we revolve their standing reasons for traducing all reforms and reformers; nor need we feel at all astonished that their professional defamatory chorus should so long have overpowered the single voice of truth, if we only consider the immense superiority, from the silversmiths of Ephesus downwards, of venal over unhired lungs—if we only remember, that whatever deficiency corporations, whether learned or religious, may have betrayed by rare accident in wisdom and virtue, yet, in two important qualities they have seldom proved wanting—have seldom lacked the courage to defame a good cause, or the cunning to disguise a bad one.

It was not to be expected, that the merits of individuals among the Independents should be treated with more candour than their character as a body. But, happily, the times are past, when either individual or collective characters were received implicitly from orthodox authorities. Writers there are, and more we trust will arise, qualified by their talents, and disposed by their principles, to elevate the champions of the good old cause to their due level in the public estimation, not by the low arts of indiscriminating panegyric with which the royalists

* "He weeded in a few months time above one hundred and fifty godly officers out of the armie."—*Memoirs of Col. Hutchinson*, p. 336, 4to ed.

have deified their heroes and martyrs, but by a plain and faithful record of their lives and actions.

There is, however, one illustrious name yet scarcely redeemed from the united hold of bigotry and ignorance which nothing, not our consciousness of utter inability to honour as it ought to be honoured, shall induce us to abandon altogether to the chance of more accomplished advocacy. An enthusiast, yet unboundedly tolerant of creeds the most opposed to his own; a republican, yet averse to every act of violence against the legislature, equally as against the executive, sir Henry Vane employed the whole superiority of his commanding and penetrating intellect, in fashioning, as necessary implements, every baser aim of selfish natures "hard to be spelled," in the promotion of the public cause. His early youth had been embittered by episcopal, his mature life was exercised with presbyterian, intolerance; his whole career was one unending hour of strife with both. On his first appearance as a statesman, he had honourably sacrificed even the legitimate emoluments of office; and up to the last moment of his active existence, no personal ambition, expectation, or interest, had ever cast its shadows on his course. One circumstance was wanting to his glory. His triumphs had been those of a civilian; his integrity (for he never showed a want of moral courage) had unfitted him for eminence when rank was guilt, and had, or has, since, exposed him to the charge of timidity from those in whose estimate audacity is heroism. This mean reproach was signally falsified, and a final test applied to his undaunted integrity, by the success of the most shameless perfidy. But who was the suborner of that act? Who was the "mean betrayer of his brother's blood"—the wretch who, if his soul had comprehension or credence for that virtue which disdained submission—that fortitude which equally disdained escape—thought only how to turn the noble qualities he hated, to the ruin of the breast that nourished them? It was Clarendon—the good lord Clarendon. It was he who, when the first (Convention) Parliament of Charles II, aristocratic and presbyterian as it was, yet excepted not Vane from the indemnity, without petitioning in concurrence with the peers that the royal promise should be pledged for the safety of his life at least—accepted for the king that petition, and in the king's name returned that promise. It was he who, when the arts of intrigue and delusion had made the second parliament a royalist assembly, suggested, or at any rate approved, a new petition from both Houses for the solemn violation of the solemn pledge which had been given by their predecessors, thus imperturbably [illegible] his slow

track to revenge, although revenge was to be bought with dishonour, and involving in the same dishonour King, Lords, and Commons. The character of the murdered was to be written for posterity. The murderer had the pen in his hand; and, with the same infernal skill which had contrived the doom, he could blacken, for a while, the very memory of his victim.* But men have now begun to distrust the "solemn plausibilities" of history—to discern where imagination, interest, antipathy—where any thing but Truth has held the pen—at length to discriminate their foes from their friends, and to celebrate, at least

* That Clarendon should have passed over in silence the murder of sir Henry Vane in his "Life," where with so much of elaborate diffuseness and particularity, he endeavours to refute the other charges against his character, is of itself a strong presumption of his share in that atrocity. He knew the world believed (what he himself affirmed), that he had long been omnipotent in the councils of Charles II, and he must, therefore, take the blame of every royal delinquency which was committed during the plenitude of his power, and which he has not thought fit to disavow, whether there is evidence or not of his actual and direct participation in it. In the present case, there is evidence enough, and to spare. Not only are we told by Clarendon himself, that every measure of the court (and this of course among the number) was arranged before its being broached in parliament by himself and the treasurer, "in conference with some select members of the House of Commons;" and that "parts were assigned to other men whom they found disposed and willing to concur in what was to be desired—*and all this without any noise*"—but we have the following letter of the king to Clarendon [see Harris's *Lives*, Vol. v. p. 32], demanding advice upon this very subject:—

"The relation that hath been made to me of sir H. Vane's carriage yesterday, in the Hall, is the occasion of this letter; which, if I am rightly informed, was so insolent as to justify all he had done, acknowledging no supreame power in England but a parliament, and many things to that purpose. You have had a true account of all; and *if he has given new occasion to be hanged*, certaynly he is too dangerous a man to lett live, *if we can honestly put him out of the way*. Thinke of this, and give me some accounte of it to-morrow: till when I have no more to say to you."

"*To the Chancellour.*"

Here, then, is a virtual and implicit acknowledgment, under the king's own hand, of the promise he had made to spare the life of Vane, coupled with a hint of his extreme desire to find "occasion" *honestly* to break it. It is in short the indolent baseness of the master, appealing for advice and assistance to the energetic baseness of the slave. This passage admirably illustrates the saying, reported by the duchess of Cleveland, *that Charles always chose a greater beast than himself to govern him*. Who so fitted *ex officio* as the keeper, to satisfy the scruples of the royal conscience? They were satisfied. Vane was executed that day week.

The formal character of Vane, by Clarendon, is written with that calculated candour which has gained applause for many of his *portraits*. It is only in the narrative part of his work, where he treats in detail of the actions of his enemies, that his quiet stream of calumny flows out with freedom.

with posthumous praise, the few statesmen who have cared for their happiness.

On looking over what we have written, we find that we have not said much of Cromwell. Not much needed to be said. Intelligent readers of history have fixed their judgment of his character entirely from his actions, which speak a plain and intelligible language. Others who adore alike the powers of good and evil, will, of course, adore Cromwell to the end of time, along with his more modern counterpart, Napoleon. We should be sorry to disturb their devotions. But we may just remark the pleasing unanimity with which Whig and Tory writers have of late years eulogised the former of these hateful oppressors. Men of either party, who have wished to obtain a sort of cheap character for liberality, without the inconvenience or the indecorum of supporting any tangible principle—while they have spoken of the really honest men of the Commonwealth with affected contempt, or with undisguised rancour, have usually treated Cromwell with forbearance—with respect. The reason is sufficiently obvious. He did more service to the few as a traitor, than he had ever done them mischief as an honest man. We have seen that the lawyers and the clergy found their own account in aiding and abetting his tyranny; and though the royalists, *par excellence*, assuredly did neither, yet they openly rejoiced at it as leaving no bar to the return of kingship, but the life of an usurper. Most enlightened serviles! they perceived in his dominion every hopeful germ of counter-revolution. They marked with genuine rapture his encroachments on established, his resistance to proposed, reforms. They watched with sure prophetic exultation his revival of old ornaments, and titles, and ceremonies; in short, viewed the whole process as a national rehearsal for the glorious twenty-ninth of May—when, at length, from long habitudes in hostile lands, with the conscience of a Jesuit, and the heart of an alien, the madly-welcomed heir of royalty returned amongst us—returned with every harpy satellite, himself the male Celæno of the obscene band—returned to tread out the latest hope of improvement even Cromwell had not dared extinguish—to desecrate the tyrant's relics—to consecrate the tyrant's work—in one wide emphatic mischief-meaning word to RESTORE.

Incidentally, we trust we have already done justice to the general accuracy and good-faith of the work which has served for our text; and the reader has been enabled, by our extracts, to decide whether years have dulled the sharp and powerful style of the *Enquirer*. There is no want betrayed in these volumes of research into original documents, or of "fair and

severe examination of evidence;" and the whole design is animated with a sincere desire of truth. Will these elements suffice to accomplish the character of an historian? Not entirely: there must be dignity and calmness of expression—perfect absence of egotism or passion in the manner—close coherence and luminous arrangement in the matter of history; none of which qualities are constantly (though all of them occasionally) united in the work of Mr. Godwin. In some of his speculations upon forms of government, he appears to have mistaken words for things; in others, he has expressed himself in terms so general and so vague, that we are sometimes at a loss for his exact meaning. But his errors are the errors of a man of genius, indirectly more useful in suggesting truths, than the most irrefragable common-places of correct mediocrity.

ART. IV.—*The Epicurean.* By Thomas Moore.

THIS volume will, no doubt, be infinitely acceptable to the ladies "who make the fortune of new books." Love, very intense; mystery, somewhat recondite; piety, very profound; and philosophy sufficiently shallow; with the help of

—— new mythological machinery,
And very handsome supernatural scenery;

strung together with an infinity of brilliant and flowery fancies, present a combination eminently calculated to delight this very numerous class of readers. It is a production in the best style of M. de Chateaubriand.

In the reign of the emperor Valerian, Alciphron, a young Epicurean philosopher, is elected chief of that school in the beginning of his twenty-fourth year, a circumstance, the author says, without precedent, and we conceive without probability.

'Youth, however, and the personal advantages that adorn it, were not, it may be supposed, among the least valid recommendations to a sect that included within its circle all the beauty, as well as wit, of Athens, and which, though dignifying its pursuits with the name of philosophy, was little else than a pretext for the more refined cultivation of pleasure.'—pp. 1, 2.

Here is a circumstance, which, the author says, never before occurred; which, therefore, according to his own showing, never occurred at all, excepting in fiction; and which most assuredly never did or could occur, followed by very goodly reasons to show that it must naturally and necessarily have occurred always. For if women were the electors, and youth

and its personal advantages the recommendations of a candidate, it is not easy to perceive how a simple elderly gentleman, like Cicero's Patro, who had no better recommendation than that of being qualified for his office, could have had any chance against such a competitor as Mr. Moore's hero.

'The character of the sect had indeed much changed since the time of its wise and virtuous founder, who, while he asserted that Pleasure is the only Good, inculcated, also, that Good is the only source of Pleasure.'—p. 2.

Alciphron should have added, that Epicurus did not bandy about the two words like a shuttlecock, but took the trouble of explaining very clearly what he meant by both.

'The purer part of this doctrine had long evaporated, and the temperate Epicurus would have as little recognized his own sect in the assemblage of refined voluptuaries who now usurped its name, as he would have known his own quiet garden in the luxurious groves and bowers among which the meetings of the school were now held.'—p. 2.

This is a great misrepresentation of the character of the later Epicureans.

'Many causes, besides the attractiveness of its doctrines, concurred at this period to render our school the most popular of any that still survived the glory of Greece. It may generally be observed, that the prevalence in one half of a community of very rigid notions on the subject of religion, produces the opposite extreme of laxity and infidelity on the other; and this kind of re-action it was, that now mainly contributed to render the doctrines of the garden the most fashionable philosophy of the day. The rapid progress of the Christian faith had alarmed all those who either from piety or worldliness were interested in the continuance of the old established creed; all who believed in the deities of Olympus, and all who lived by them. The consequence was, a considerable increase of zeal and activity throughout the constituted authorities and priesthood of the whole Heathen world. What was wanting in sincerity of belief, was made up in rigour; the weakest parts of the Mythology were those of course most angrily defended, and any reflections tending to bring Saturn or his wife Ops into contempt, were punished with the utmost severity of the law.'—pp. 2, 3.

As a light touch of satire, glancing from the past to the present, all this is very well; but the concluding sentence, if intended to be at all taken as the assertion of an historical fact, is decidedly incorrect.

'In this state of affairs, between the alarmed bigotry of the declining faith, and the simple and sublime austerity of its rival, it was not wonderful that those lovers of ease and pleasure who had no

interest, reversionary or otherwise, in the old religion, and were too indolent to inquire into the sanctions of the new, should take refuge from the severities of both in the shelter of a luxurious philosophy, which leaving to others the taste of disputing about the future, centered all its wisdom in the full enjoyment of the present.'—pp. 3, 4.

With respect to the alarmed bigotry of the declining religion (the Athenians never called it a faith), there never was a religion from first to last so little tinctured with bigotry; the persecutions of the Christians by the Roman emperors originated in political motives; they were persecuted as Jacobins and Radicals, not as Infidels: though religion was of course then, as now, called in to subserve, as far as it would go, the cause of political supremacy; and with respect to "the simple and sublime austerity," they are words which involve a great quantity of misrepresentation, employed as they are here, antithetically to the bigotry of the ancient mythology, and the luxurious philosophy of the Epicureans.

'The sectaries of the garden had, ever since the death of their founder, been accustomed to dedicate to his memory the twentieth day of every month. To these monthly rites, had for some time been added, a grand annual festival, in commemoration of his birth. The feasts given on this occasion by my predecessors in the chair, had been invariably distinguished for their taste and splendour, and it was my ambition, not merely to imitate this example, but even to render the anniversary now celebrated under my auspices, so brilliant as to efface the recollection of all that went before it.'—pp. 4, 5.

Here follows a description of a very gay festival, much more Vauxhallian than Attic, such, the author says, as Athens seldom, he should have said never, witnessed. But as soon as it is over, the hero is troubled with a qualm, to which we recollect no parallel; but to which an authentic case which we remember to have somewhere read, of a South-Sea Missionary, furnishes a remarkable converse.

This pious brother was one of three, who went forth to be shining lights to the Australasian gentiles. One night he was troubled, not by a dream of a ghost, but by what was to him a much more astounding phænomenon, a process of reasoning which went to syllogise him out of his conviction of the immortality of the soul. The dismayed brother applied in deep tribulation to the saint, who finally turned out to be the Abdiel of the party, for a refutation of the intrusive syllogisms. Brother Abdiel told him, the refutation was to be found in the Scripture; but the doubting Thomas shook his head and said, if his reason erred so grossly in this point, he could not trust it in any, even in the reception of the evidence of

his faith; and that if his reasoning were correct, his labours and privations among savages were miseries incurred for nothing. Brother Abdiel was inexorable in refusing to put down the fiend by argument instead of by faith, and brother Thomas took the first opportunity of returning to Europe, in a state of reprobation.

The third saint of this hopeful party turned out no better than a Belial. He took to wife a native girl, who not only would not walk with him in the path of life, but actually made him a backslider, even unto idolatry. She converted him to her own religion by a process which was so far less sinful than brother Thomas's, that reason had certainly nothing to do with it; but he was so lost to grace as to assure brother Abdiel, that, if he would pursue the same course of inquiry, he would arrive at the same conclusion.

We suspect the volume before us is a composite plagiarism from the adventures of these worthies. The hero begins very like brother Thomas, with a qualm of dissent from his sect's doctrines on the subject of immortality, and ends by being converted from his philosophy, as the result not of any process of reasoning, but of the same cogent passion which converted brother Belial.

'That very night my triumph, my happiness, had seemed complete. I had been the presiding genius of that voluptuous scene. Both my ambition and my love of pleasure had drunk deep of the cup for which they thirsted. Looked up to by the learned, and loved by the beautiful and the young, *I had seen in every eye that met mine either the acknowledgment of triumphs already won, or the promise of others still brighter that awaited me.* Yet, even in the midst of all this, the same dark thoughts had presented themselves; the perishableness of myself and all around me, every instant recurred to my mind. Those hands I had pressed—those eyes in which I had seen sparkling a spirit of light and life, that should never die—those voices, that had talked of eternal love—all, all, I felt were but a mockery of the moment, and would leave nothing eternal but the silence of their dust!'

'"Oh! were it not for this sad voice,
Stealing amid our mirth to say,
That all, in which we most rejoice,
Ere night may be the Earth-worm's prey:
But for this bitter—only this—
Full as the world is brimm'd with bliss,
And capable as feels my soul
Of draining to its depth the whole,
I should turn Earth to Heaven, and be,
If bliss made gods, a deity!"'—pp. 12, 13.

A garden deity, of course.

This picture of an Epicurean, the chief of his school in Athens, divided between self-congratulation on his *bonnes fortunes,* and lamentations over his own conviction of the truth of his sect's dogma of the mortality of the soul, could only have been hazarded by a confident reliance on the profound ignorance of every thing truly classical, which characterizes the vast majority of the reading public, and especially of that portion of it which our author especially addresses.

After this he goes to sleep, and dreams a dream. He sees "a pale venerable man, with a taper in his hand," standing before him, "like a messenger from the grave."

'After a few moments of awful silence, during which he looked at me with a sadness that thrilled my very soul, he said, Thou who seekest eternal life, go unto the shores of the dark Nile—go unto the shores of the dark Nile, and thou wilt find the eternal life thou seekest.'—p. 16.

The Epicurean, who is a seeker of eternal life, is also a believer in dreams. He therefore determines to visit the land of the Pyramids, gives himself leave of absence with as much *nonchalance* as if he had been the chairman of a bubble company, and sets sail for Alexandria, "A. D. 257, furnished with recommendatory letters to all parts of Egypt!"

So far all we have seen of our Epicurean exhibits him as a *bon vivant,* a gay deceiver, a seeker after eternal life, and a believer in dreams. We do not mean to say, that among the *soi-disant* Epicureans scattered throughout the Roman Empire in the third century, there may not have been many such gentlemen; but we do mean to say, that the later Epicureans, of whom we have any authentic knowledge, were very differently-compounded persons: and as our hero is the *élite* of his sect, we conceive that the best known specimens of his class should have sat for his picture. As it is, we cannot think it possible that such a person as is here represented could have been elected chief of his school in Athens, unless we could suppose that the Athenians had forestalled us in our own system of virtual representation, and had carried it to a pitch of perfection, which, until we revived it in the eighteenth century, had been lost almost as hopelessly as the art of making mummies.

At Alexandria our philosopher lives very jovially, with intermittent fits of his qualm, till he is startled and shocked by unveiling a skeleton at a banquet. The poor young gentleman is "wholly unprepared for such a spectacle:" he had neither sufficient knowledge of ancient customs to look for it, nor sufficient philosophy to endure it. Yet the custom of intro-

ducing skeletons, either natural or artificial, at banquets, having passed from the Egyptians to the Greeks, and from the Greeks to the Romans, long before the time of our hero, without any other recorded effect on the guests than that of a stimulus to present enjoyment in consideration of the brevity of life, his surprise and discomposure on the occasion form two more new and curious traits in the character of our Epicurean. It strikes him, at the same time, that if this were what his dream had sent him to look for, the pale venerable man had adopted a very original method of keeping his promise-to-pay: very original, at any rate, in those days, though quite in accordance with our more enlightened practices.

He now becomes satisfied that he shall not find immortality in Alexandria, and determines to look for it in Memphis, having some very cogent reasons for supposing that the key to it is under the Pyramids.

At Memphis he begins as usual, by amusing himself with the lions, and indulges himself in a number of most un-Attic conceits, of which the following are specimens:—

'I stood before the Pyramids of Memphis, and saw them towering aloft, like the watch-towers of Time, from whose summit when he expires he will look his last.'—p. 37.

This is a very infelicitous conceit. The peak of a pyramid must be an uncomfortable dying-bed even for Time. If we attempt to make a picture of this figure, we must imagine the old gentleman dying on tip-toe, and finishing his terrestrial career by rolling down the side of the Pyramid into the sand.

'The sun half sunk beneath the horizon, was taking calmly and gloriously his leave of the Pyramids, as he had done evening after evening for ages, till they had become familiar to him as the earth itself. On the side turned to his ray they now presented a front of dazzling whiteness, while on the other, their great shadows, lengthening to the eastward, looked like the first steps of night, hastening to envelope the hills of Araby in their shade.'—p. 40.

Here we have night in the novel attitude of stepping from west to east, a most extraordinary image to present itself either to a philosopher or a mythologist.

In another place we have the Libyan desert like a sea, and Time standing by it like a tide-waiter.

'Memphis, still grand, though no longer the unrivalled Memphis, that had borne away from Thebes the crown of supremacy, and worn it undisputed through so many centuries, now softened by the moonlight that harmonised with her decline, shone forth among her lakes, her pyramids, and her shrines, like a dream of glory.'

to pass away. Ruin, even now, was but too visible around her. The sands of the Libyan desert gained upon her like a sea; and among solitary columns and sphinxes, already half sunk from sight, Time seemed to stand waiting, till all, that now flourished around, should fall beneath his desolating hand like the rest.'—p. 42.

The sands of the Libyan desert gaining on Memphis like a sea, is an impressive though not original image, but the picture is altogether spoiled by the figure of Time standing waiting. Has Mr. Moore forgotten that time and tide wait neither for men nor sands? The very essence of the idea of Time is steady, incessant, interminable progression. If he has any business in the place, it is as an agent, himself silently impelling the progress of desolation, not waiting till the sands have done their work, in order to begin his. And as Memphis was still a flourishing city at least four centuries later than our very curious specimen of an Epicurean, Time must have stood waiting for no inconsiderable portion of himself.

Again, the hero being alone in a skiff on the inundation of the Nile:—

'Absorbed in such thoughts I rowed on, scarce knowing whither I went, till, startled by finding myself within the shadow of the City of the Dead, I looked up, and saw rising in succession before me pyramid beyond pyramid, each towering more loftily than the other, while all were out-topped in grandeur by one, upon whose summit the moon seemed to rest as on a pedestal.'—p. 51.

This looking up just in the nick of time to catch the moon on the peak of the great pyramid, strikes us as a very petty straining after pantomimic effect, and as throwing away, for the sake of a tricksy phantasy, all the real sublimity of the picture of the City of the Dead by moonlight, standing (by aid of the inundation) on the margin of the waters. And we may, perhaps, be permitted to wonder how he could be startled from his reverie by finding himself in the shadow, when, according to his own showing, he was still in the full moonlight.

We think Mr. Moore must admit, in his cooler moments, that these are very foolish freaks to play with Time, and the Sun, and the Moon, and the Pyramids. The truth is, the sublime is beyond his grasp; and, in aiming at it without adequate power, he only achieves, as many worthy aspirants have done before him, a pompous seizure of its close neighbour the ridiculous.

At Memphis, Alciphron falls violently in love with a young priestess, whom he sees in a temple at "the great festival of the Moon." We shall extract the entire passage, in which he describes the commencement of his disease.

'On the waters all was life and gaiety. As far as eye could reach,

the lights of innumerable boats were seen, studding, like rubies, the surface of the stream. Vessels of all kinds, from the light coracle, built for shooting down the cataracts, to the large yacht that glides to the sound of flutes,—all were afloat for this sacred festival, filled with crowds of the young and the gay, not only from Memphis and Babylon, but from cities still farther removed from the scene.

'As I approached the island, I could see, glittering through the trees on the bank, the lamps of the pilgrims hastening to the ceremony. Landing in the direction which those lights pointed out, I soon joined the crowd; and, passing through a long alley of sphinxes, whose spangling marble shone out from the dark sycamores around them, in a short time reached the grand vestibule of the temple, where I found the ceremonies of the evening already commenced.

'In this vast hall, which was surrounded by a double range of columns, and lay open over head to the stars of heaven, I saw a group of young maidens moving in a sort of measured step, between walk and dance, round a small shrine, upon which stood one of those sacred birds that, on account of the variegated colour of their wings, are dedicated to the moon. The vestibule was dimly lighted, there being but one lamp of naphtha on each of the great pillars that encircled it. But having taken my station beside one of those pillars, I had a distinct view of the young dancers, as in succession they passed me.

'Their long graceful drapery was as white as snow, and each wore loosely, beneath the rounded bosom, a dark-blue zone, or bandelet, studded, like the skies at midnight, with little silver stars. Through their dark locks was wreathed the white lily of the Nile—that flower being accounted as welcome to the moon as the golden blossoms of the bean-flower are to the sun. As they passed under the lamp, a gleam of light flashed from their bosoms, which I could perceive was the reflection of a small mirror that, in the manner of the women of the East, each wore beneath her left shoulder.

'There was no music to regulate their steps; but, as they gracefully went round the bird on the shrine, some by the beat of the castanet, some by the shrill ring of the sistrum—which they held uplifted in the attitude of their own divine Isis—harmoniously timed the cadence of their feet; while others, at every step, shook a small chain of silver, whose sound, mingling with those of the castanets and sistrums, produced a wild but not an unpleasing harmony.

'They seemed all lovely; but there was one—whose face the light had not yet reached, so downcast she held it—who attracted, and, at length, rivetted all my attention. I knew not why, but there was a something in those half-seen features, a charm in the very shadow that hung over their imagined beauty—which took me more than all the out-shining loveliness of her companions. So enchained was my fancy by this coy mystery, that her alone, of all the group, could I either see or think of—her alone I watched, as with the same downcast brow she glided round the altar gently and aërially, as if her presence, like that of a spirit, was something to be felt, not as

'Suddenly, while I gazed, the loud crash of a thousand cymbals was heard;—the massy gates of the temple flew open, as if by magic, and a flood of radiance from the illuminated aisle filled the whole vestibule; while, at the same instant, as if the light and the sounds were born together, a peal of rich harmony came mingling with the radiance.

'It was then—by that light, which shone full upon the young maiden's features, as, starting at the blaze, she raised her eyes to the portal, and, as suddenly, let fall their lids again—it was then I beheld what even my own ardent imagination, in its most vivid dreams of beauty, had never pictured. Not Pysche herself, when pausing on the threshold of heaven, while its first glories fell on her dazzled lids, could have looked more beautiful, or blushed with a more innocent shame. Often as I had felt the power of looks, none had ever entered into my soul so far. It was a new feeling—a new sense—coming as suddenly as that radiance into the vestibule, and at once filled my whole being—and had that vision but lingered another moment before my eyes, I should have wholly forgotten who I was and where, and thrown myself, in prostrate adoration, at her feet.

'But scarcely had that gush of harmony been heard, when the sacred bird, which had till now stood motionless as an image, expanded his wings, and flew into the temple; while his graceful young worshippers, with a fleetness like his own, followed,—and she who had left a dream in my heart never to be forgotten, vanished with the rest. As she went rapidly past the pillar against which I leaned, the ivy that encircled it caught in her drapery, and disengaged some ornament which fell to the ground. It was the small mirror which I had seen shining on her bosom. Hastily and tremulously I picked it up, and hurried to restore it;—but she was already lost to my eyes in the crowd.

'In vain I tried to follow;—the aisles were already filled, and numbers of eager pilgrims pressed towards the portal. But the servants of the temple prevented all further entrance, and still, as I presented myself, their white wands barred the way. Perplexed and irritated amid that crowd of faces, regarding all as enemies that impeded my progress, I stood on tiptoe, gazing into the busy aisles, and with a heart beating as I caught, from time to time, a glimpse of some spangled zone, or lotus wreath, which led me to fancy that I had discovered the object of my search. But it was all in vain;—in every direction, files of sacred nymphs were moving, but nowhere could I see her whom alone I sought.

'In this state of breathless agitation did I stand for some time,—bewildered with the confusion of faces and lights, as well as with the clouds of incense that rolled around me,—till, fevered and impatient, I could endure it no longer. Forcing my way out of the vestibule into the cool air, I hurried back through the alley of sphinxes to the shore, and flung myself into my boat.'—pp. 43—49.

He now rows away to the City of the Dead, where he sees

two female figures, muffled up and veiled, land from a boat, and comforts himself with the prospect of curing his passion by a *bonne aventure* among the tombs. He follows the new comers till they disappear into a pyramid by a concealed opening, which he detects, "with infinite promptitude," and dips after them into subterranean passages, till he gets into a "chapel," where he again discovers the lady of his love, watching over a lifeless female form, in a crystal shrine, on an altar of granite.

'The lamp, by which the whole of the chapel was illuminated, was placed at the head of the pale image in the shrine; and between its light and me stood a female form bending over the monument, as if to gaze upon the silent features within. The position in which this figure was placed, intercepting a strong light, afforded me, at first, but an imperfect and shadowy view of it. Yet even at this mere outline my heart beat high,—and memory, as it proved, had as much share in this feeling as imagination. For on the head changing its position, so as to let a gleam fall on the features, I saw, with a transport which had almost led me to betray my lurking place, that it was she—the young worshipper of Isis—the same, the very same whom I had seen brightening the holy place where she stood, and looking like an inhabitant of some purer world.

'The movement by which she had now given me an opportunity of recognising her was made in raising from the shrine a small cross * of silver, which lay directly over the bosom of the lifeless figure. Bringing it close to her lips, she kissed it with a religious fervour; then turning her eyes mournfully upwards, held them fixed with an inspired earnestness, as if at that moment, in direct communion with heaven, they saw neither roof nor any other earthly barrier between them and the skies.

'What a power hath innocence, whose very helplessness is its safeguard—in whose presence even passion himself stands abashed and turns worshipper at the altar which he came to despoil. She who but a short hour before, had presented herself to my imagination as something I could have risked immortality to win—she whom gladly from the floor of her own lighted temple, in the very face of its proud ministers, I would have borne away in triumph, and defied all punishments, both human and sacred, to make her mine—she was now before me, thrown, as if by fate itself, into my power—standing there, beautiful and alone, with nothing but her innocence for her guard! Yet, no—so touching was the purity of the whole scene, so calm and august that protection which the dead seemed to extend over the living, that every earthlier feeling was forgotten as I gazed, and love itself became exalted into reverence.

'Entranced, indeed, as I felt in witnessing such a scene, thus to enjoy it by stealth seemed a wrong, a sacrilege—and rather than let

* A cross was, among the Egyptians, the emblem of a future life.

her eyes meet the flash of mine, or disturb by a whisper that sacred silence in which Youth and Death held communion through Love, I would have let my heart break, without a murmur, where I stood. Gently, as if life depended upon every movement, I stole away from that tranquil and holy scene—leaving it still tranquil and holy as I found it, and, gliding back through the same passages and windings by which I had entered, regained the narrow stair-way, and again ascended into light.

'The sun had just risen, and, from the summit of the Arabian hills, was pouring down his beams into that vast valley of waters,—as if proud of the homage that had been paid to his own Isis, now fading away in the superior light of her lord. My first impulse was to fly from this dangerous spot, and in new loves and pleasures seek forgetfulness of the scene which I had witnessed. "Once out of the circle of this enchantment," I exclaimed, "I know my own susceptibility to new impressions too well, to doubt that I shall soon break the spell that is around me."

'But vain were my efforts and resolves. Even while I swore to fly, my steps were still lingering round the pyramid—my eyes still turned towards the secret portal, which severed this enchantress from the world of the living. Hour after hour did I wander through that City of Silence,—till already it was noon, and under the sun's meridian eye, the mighty pyramid of pyramids stood, like a great spirit, shadowless.

'Again did those wild and passionate feelings which had, for a moment, been subdued into reverence by her presence, return to kindle up my imagination and senses. I even reproached myself for the awe that had held me spell-bound before her. "What would my companions of the Garden say, did they know that their chief—he whose path Love had strewed with trophies—was now pining for a simple Egyptian girl, in whose presence he had not dared to give utterance to a sigh, and who had vanquished the victor without even knowing her triumph!"'—pp. 58—63.

He now determines to watch at the entry for her forthcoming, and executes his resolution like one who well knows what belongs to a watch; for he sleeps like an ancient and most quiet watchman, till some time after moon-rise of the following night. He lets us, however, into an important secret in the art of watching, for he went comfortably to sleep in the confidence that "his heart, if not his ear, would still be on the watch." We wish we could imagine what sir Hugh Evans, who was so much astonished at Pistol's "hearing with ears," would have said of a philosopher who supposed that when he was too fast asleep to hear with his ears, he should be able to hear with his heart—

As Rosicrusian virtuosis
Can see with ears and hear with noses.

Such are the frippery impertinences which ladies and lady-like gentlemen call "beautiful ideas!"

He refreshes himself with dates and dried fruits from his boat, which he always keeps victualled for a day's voyage, furnishes himself with a lamp from the same store, and determines to re-enter the pyramid in quest of the fair unknown. He is very nearly deterred by a sound which he takes for an ill omen, but his love overcomes his superstition, and he gets into "the chapel" again.

We wish Mr. Moore would tell us what is the Attic word for a chapel.

He finds nothing in the chapel but the crystal shrine and the mummy: he is awed thereby.

We must stop to enumerate. The exclusive love, the omen, and the awe, form three more new traits in the character of our Epicurean.

He discovers an outlet from the chapel, which leads him through narrow windings into a catacomb, at the end of which he finds a well, where, having occasion for both his hands, he finds, at the same time, very opportunely, that his lamp fits his head like a helmet. He gets down part of the well, by a hundred morsels of iron steps, then clambers through an aperture, and goes down a spiral staircase, almost as deep as Bottom's dream, which had no bottom; then passes through two iron gates, which open at the touch of his finger, and close with a din as if all the echoes which had been due to all the noises made from the beginning of the world were being paid off by a run (this is not Mr. Moore's image, but our own, after his fashion). He then walks into an illuminated alley, very like the dark walks of Vauxhall since they have been lighted by order of the Surrey magistrates, where he finds odoriferous thickets flourishing without daylight or fresh air, like the peaches in sir George Mackenzie's economical hot-house, which were very good peaches, wanting nothing but taste and colour, very like turnips in semblance, and no doubt almost as good in substance, excepting that no rhetoric could prevail on a pig to eat one. In this alley he hears some mellifluous music, consisting of "a harmony tapering into a spire of female tones, towering high and clear over all the rest;" and at the peak of this spire he thinks he can "spy his Thisbe's voice."

We wish Mr. Moore would tell us where our Athenian got his notion of a spire, in the sense in which the word is here employed.

He proceeds into a veritable dark walk, where he smells the

damp of death-vaults, sees phantoms flitting, and is mystified by a blue flame which writes the following verses on the wall—

'You, who would try
Yon terrible track,
To live or to die,
But ne'er to look back—

'You, who aspire
To be purified there,
By the terrors of fire,
Of water and air,—

'If danger, and pain,
And death you despise,
On—for again
Into light you shall rise;

'Rise into light
With that Secret Divine,
Now shrouded from sight
By the Veils of the Shrine!

'But if——

Here the letters faded away into a dead blank, more awfully intelligible than the most eloquent words.

'A new hope now flashed across me. The dream of the Garden, which had been for some time almost forgotten, returned to my mind. "Am I, then," I exclaimed, "in the path to the promised mystery? and shall the great secret of Eternal Life *indeed* be mine?

'"Yes!" seemed to answer, out of the air, that spirit-voice which still was heard crowning the choir with its single sweetness. I hailed the omen with transport. Love and Immortality both beckoning me onward—who could give a thought to fear, with two such bright hopes in view? Having invoked and blessed that unknown enchantress whose steps had led me to this abode of mystery and knowledge, I plunged into the chasm.'—pp. 75, 76.

After this he goes through fire and water, in a manner not very dissimilar to that which the frequenters of the Italian Opera must remember to have seen achieved by signor Garcia and madame Bellocchi, in the "Flauto Magico" of Mozart. The opera and the corresponding portion of the work before us are both drawn from the same source, Terrasson's Romance of "Sethos," which his French biographer says contains "des détails curieux sur les initiations." From these "détails curieux" Mr. Moore has helped himself liberally; and by turning the absurd into the monstrous, and the improbable into the impossible, he passes his hero through a process of half-burning, half-drowning, and half-hanging, from which his life is only saved by availing himself, on each occasion, of a fantastical means of escape which a single moment would have placed

beyond his grasp, and his apprehension of which is nothing less than a miracle. He is landed from the three several elements in which he has escaped the several perils of suspension, combustion, and submersion, in a sunless Paradise—a subterranean garden lighted by a composition of golden moonlight, and some other light (gas perhaps), where he finds shrubs and flowers, and, amongst other marvels, verdant turf.

We recommend Mr. Moore to try the experiment of growing a pot of grass in his cellar before he again amuses the public with similar fantasies.

'Nor were there wanting inhabitants for this sunless Paradise. Through all the bright gardens were wandering, with the serene air and step of happy spirits, groups both of young and old, of venerable and of lovely forms, bearing, most of them, the Nile's white flowers on their heads, and branches of the eternal palm in their hands; while, over the verdant turf, fair children and maidens went dancing to aërial music, whose source was, like that of the light, invisible, but which filled the whole air with its mystic sweetness.

'Exhausted as I was by the trials I had undergone, no sooner did I perceive those fair groups in the distance, than my weariness, both of frame and spirit, was forgotten. A thought crossed me that she, whom I sought, might be among them; and, notwithstanding the awe with which that unearthly scene inspired me, I was about to fly, on the instant, to ascertain my hope. But in the act of making the effort, I felt my robe gently pulled, and turning, beheld an aged man before me, whom, by the sacred hue of his garb, I knew to be a Hierophant. Placing a branch of the consecrated palm in my hand, he said, in a solemn voice, "Aspirant of the Mysteries, welcome!"—then, regarding me for a few seconds with grave attention, added, in a tone of courteousness and interest, "The victory over the body hath been gained!—Follow me, young Greek, to thy resting place."

I obeyed in silence,—and the Priest, turning away from this scene of splendour, into a secluded path, where the light faded away as we advanced, conducted me to a small pavilion, by the side of a whispering stream, where the very spirit of slumber seemed to preside, and, pointing to a bed of dried poppy-leaves within it, left me to repose.' —pp. 85—87.

After a good deal of mystification, in the course of which the hero begins to wish himself safe back in his boat, and has "his very soul chilled" several times over, the Hierophant makes his appearance, and expounds to him the doctrine of the immortality of the soul, in a sort of figurative predication, which contains nothing more than what Alciphron and his brother Epicureans must have laughed at fifty times over, and which it certainly was not worth his while to go through a good singeing and ducking for the sake of having preached to him, as something

new, below the level of the sea. He shows himself somewhat restive under the process, but a phantasmagoric glimpse of his fair enchantress, in a veil made of something like a meteor, which gradually becomes transparent, reconciles him to his locality. We cannot follow him through all the mummeries of his initiatory process. He is finally admitted into the Sanctuary, where the mighty secret is to burst upon him, in a blaze of light, from behind the mystical Veil.

'While, with an imagination thus excited, I stood waiting the result, an increased gush of light still more awakened my attention; and I saw, with an intenseness of interest which made my heart beat aloud, one of the corners of the mighty Veil slowly raised up. I now felt that the Great Secret—whatever it might be—was at hand. A vague hope even crossed my mind—so wholly had imagination resumed her empire—that the splendid promise of my dream was on the point of being realised!'—p. 128.

But, instead of the Great Mystery, a female form slips out from under a corner of the curtain, and placing the end of a riband gently in his hand, says, in a tremulous whisper, "Follow, and be silent."

He follows her accordingly, leaving the Mighty Mystery to expound itself to his vacant place. She conducts him through a long series of zig-zags and inclined planes, up and down which they go shooting like arrows, in a mechanical car, to the foot of an old ascent of innumerable stairs, from whence they emerge into day-light in a ruined temple, on an island in Lake Mœris.

The young lady, who turns out to be his beautiful unknown, faints away; and, on her recovery, inquires for the "venerable Athenian" whom she had brought with her out of the bowels of the earth. It seems that a Philosophic Chairman of twenty-four was quite out of her calculation of the Athenian character. She is alarmed at finding that the supposed old gentleman is a young one; but, having no time to lose, she exclaims, "To the Nile, without delay!" Alciphron hails one of the boats which ply on the lake for hire, and

'without a word, a look, that could alarm, even by its kindness, or disturb that innocent confidence which she now placed in me, led her down by the winding path to the boat.

'Every thing looked smiling around us as we embarked. The morning was now in its first freshness, and the path of the breeze might be traced over the lake, wakening up its waters from their sleep of the night. The gay, golden-winged birds that haunt these shores, were, in every direction, skimming along the lake; while, with a graver consciousness of beauty, the swan and the pelican were

seen dressing their white plumage in the mirror of its wave.'—pp. 141, 142.

"The swan and the pelican were seen dressing their white plumage in the mirror of its wave." Whether the pelican uses water as a looking-glass to dress itself by, we have never had an opportunity of determining by observation, but we are very certain that the swan does not. The swan never looks into the water for any purpose but to detect food. It trims its plumage with its beak, pretty much as a cat trims its fur with its tongue, and no more uses the water it floats on as a mirror to assist the operation, than the cat uses the carpet or cushion it sits on for the same purpose. And even if this were, which it is not, a habit of the swan, it would have been very inconvenient to practise it on the occasion in question, on a lake ruffled by a breeze sufficiently strong to impel a sailing-boat with considerable speed. This it is to paint from books and imagination, and not from nature. Mr. Wordsworth' says of a swan and a lake which he has seen,

> "The swan, on still St. Mary's lake,
> Floats double, swan and shadow."

Mr. Moore says of a swan and a lake, which he has not seen, "The swan dresses its white plumage in the mirror of the ruffled waters." In the former passage there are picturesqueness, simplicity, and truth: in the latter, a conceit, a misrepresentation, and an impossibility. We can pardon a cockney poet who says of a young actress, more than commonly rosy, that she is as "white as a cygnet," which all who have ever seen one know to be brown; we can pardon him when he calls the most rigid of trees the "bending cedar;" and the most wiry of foliage the "trembling pine-leaf;" we can pardon the magazine-critics when they extol this, and a great mass of congenial poetry, for its prodigious truth to nature; but we cannot allow his and their impunity to pass into a precedent for a similar method of dealing with natural objects on the part of an author who quotes Greek, and has had opportunities of observation beyond the Regent's Park.

The boat has a pavilion in which the beautiful Egyptian reposes, and in which Alciphron takes a "reverential" view of her as she meditates over a small volume, which afterwards turns out to be the Bible as appointed to be read in churches in the third century. An explanation is then given of the process by which the young Egyptian priestess had become a Christian. Her mother, it seems, had been employed as a scribe by no less a personage than Father Origen, and had copied for him all the

Bible and all his Commentaries thereon, which pleasant occupation caused "the divine truths, so eloquently illustrated, to find their way by degrees from the page to her heart." She afterwards married a Pagan, who left her a widow in Memphis, where being a lone woman, in want of a situation, she applied for the first vacancy in the service of the Sacred College, and was elected a priestess of Isis. Here she gave birth to her daughter Alethe.

So here is a pregnant woman elected a priestess of Isis, and lying-in, as a matter of course, under the auspices of the Sacred College!

Theora has educated her daughter Alethe secretly as a Christian, and has bequeathed her the sacred volume, and a commission to take the first opportunity of escaping from Memphis to the mountains of the Said, where resides a venerable Father who will take charge of her.

Alciphron conveys her faithfully to her destination, not without reluctance, which he expresses in the following most extraordinary manner.

'Were we left to each other, as on this silent river, in this undisturbed communion of thoughts and feelings, I knew too well, I thought, both her sex's nature and my own, to feel a doubt that love would ultimately triumph. But the severity of the guardianship to which I must resign her,—some monk of the desert, some stern Solitary,—the influence such a monitor would gain over her mind, and the horror with which, ere long, she would be taught to regard the reprobate infidel on whom she now smiled,—in all this prospect I saw nothing but despair. After a few short hours, my happiness would be at an end, and such a dark chasm open between our fates, as must sever them, far as earth is from heaven, asunder.

'It was true, she was now wholly in my power. I feared no witnesses but those of earth, and the solitude of the desert was at hand. But though I acknowledged not a heaven, I worshipped her who was, to me, its type and substitute. If, at any moment, a single thought of wrong or deceit, towards a creature so sacred, arose in my mind, one look from her innocent eyes averted the sacrilege. Even passion itself felt a holy fear in her presence,—like the flame trembling in the breeze of the sanctuary,—and Love, pure Love, stood in place of Religion.'—pp. 204—206.

The Epicurean, therefore, is a person altogether without morality; nothing but religion, and the acknowledgment of a heaven, would have prevented him from ravishing the young lady in the desert; and as he had no religion, and no acknowledgment of a heaven, he made both the one and the other out of the sacredness of his passion.

This is another new trait in the character of our Epicurean,

that he has no morality; and that he is only restrained by a very curious substitute for religion, of his own manufacture, from the perpetration of a flagrant moral wrong.

Before he conducts his fair charge to the holy man, he dismisses his first boat at a point of the river above his destination, and the boatmen, instead of returning home after their job, accommodate themselves to his purpose of avoiding observation, by continuing their voyage up the river by themselves, for no purpose of their own that we can divine, unless that as they had been well paid by the philosopher, they thought they would give themselves a holiday, and drink out the profits at Thebes: speculating, perhaps, on a back fare from thence to Memphis. If we had hired a "pair of oars" at Westminster, to row us to Windsor, we should be much surprised, after landing at Eton Bridge, to see our badged boatmen pulling away for Maidenhead instead of dropping back to London. Fiction should regard probability even in trifles.

Alciphron now purchases a boat, which he rows himself, and

'After a short delay, we were again afloat down the current;—the sun just then sinking, in conscious glory, over his own golden shrines in the Libyan waste.

'The evening was more calm and lovely than any that yet had smiled upon our voyage; and, as we left the bank, there came soothingly over our ears a strain of sweet, rustic melody from the shore. It was the voice of a young Nubian girl, whom we saw kneeling on the bank before an acacia, and singing, while her companions stood round, the wild song of invocation, which, in her country they address to that enchanted tree:—

'"Oh! Abyssinian tree,
We pray, we pray, to thee;
By the glow of thy golden fruit,
And the violet hue of thy flower,
And the greeting mute
Of thy bough's salute
To the stranger who seeks thy bower.

II.

'"Oh! Abyssinian tree,
How the traveller blesses thee,
When the night no moon allows,
And the sun-set hour is near,
And thou bend'st thy boughs
To kiss his brows,
Saying, 'Come rest thee here.'
Oh! Abyssinian tree,
Thus bow thy head to me!"

In the burthen of this song the companions of the young Nubian joined; and we heard the words, "Oh! Abyssinian tree," dying away

on the breeze, long after the whole group had been lost to our eyes.'—pp. 215—217.

We cannot help thinking, that Mr. Moore had Mr. Coleridge's Abyssinian maid in his eye :—

> 'A damsel with a dulcimer,
> In a vision once I saw;
> It was an Abyssinian maid,
> And on her dulcimer she played,
> Singing of Mount Abora.'

Mr. Moore's is a pleasing picture, and it is certainly not a copy. Still we cannot help thinking, that we owe the Nubian girl and her song, to the Abyssinian damsel and her dulcimer.

We are the more induced to this opinion, by the way in which the word Abyssinian is pressed into the service. The Nubian girl in Egypt, might, with great propriety, call a tree of her native land a Nubian tree, but what was Abyssinia more than Egypt to her? Why was it to her, more an Abyssinian than an Egyptian tree? For no reason we can imagine, but that Mr. Coleridge had seen in a vision an Abyssinian damsel with a dulcimer, and that the word Abyssinian had a very pretty effect in Mr. Coleridge's verses.

At length turning from the Nile up the remains of an old canal, he lands among some dreary rocks, and lodges his fair charge in the hands of Father Melanius, and being spell-bound by his passion, intimates his desire to remain near the holy sage and receive ghostly instruction. The Father gives him an uncomfortable place to live in, and a comfortable book to read, and the Epicurean sits down in sober sadness to study the Scriptures.

'Impatient, however, to possess myself of the elements of a faith, on which—whatever it might promise for hereafter—I felt that my happiness here depended, I turned over the pages with an earnestness and avidity, such as never even the most favourite of my studies had awakened in me. Though, like all who seek but the surface of learning, I flew desultorily over the leaves, lighting only on the more prominent and shining points, I yet found myself, even in this undisciplined career, arrested, at every page, by the awful, the supernatural sublimity, the alternate melancholy and grandeur of the images that crowded upon me.

'I had, till now, known the Hebrew theology but through the platonising refinements of Philo;—as, in like manner, for my knowledge of the Christian doctrine I was indebted to my brother Epicureans, Lucian and Celsus. Little, therefore, was I prepared for the simple majesty, the high tone of inspiration,—the poetry, in short, of heaven that breathed throughout these oracles. Could admiration have kindled faith, I should, that night, have been a believer; so

elevated, so awed was my imagination by that wonderful book,—its warnings of woe, its announcements of glory, and its unrivalled strains of adoration and sorrow.

'Hour after hour, with the same eager and desultory curiosity, did I turn over the leaves;—and when, at length, I lay down to rest, my fancy was still haunted by the impressions it had received. I went again through the various scenes of which I had read; again called up, in sleep, the bright images that had charmed me, and, when wakened at day-break by the hymn from the chapel, fancied myself still listening to the sound of the winds sighing mournfully through the harps of Israel on the willows.—pp. 259—261.

The truth of the Christian Religion is too clearly established amongst us to admit of dispute. The question is not what we think of it, but what an Epicurean President was likely to think of it. The opinions here expressed, are as un-Epicurean as the language and sentiments are decidedly un-Attic. The wisdom of St. Paul was "to the Greeks foolishness." And if Alciphron had been at all a fair specimen of either an Epicurean or an Athenian, Justinian would have spared himself the trouble of suppressing the schools of Athens.

The old hermit visits him every night, and regales him with a sermon in the open air; and the good Father is so delighted with his exemplary patience under the infliction, that he betroths him to Alethe.

His dreams of happiness are dissipated by a new persecution of the Christians. Melanius is put to death in the forum of Antinöe, and Alethe is destroyed by an artifice of Orcus the high priest of Memphis, who is a very busy agent in the persecution.

Alciphron, who has been wounded in an endeavour to rescue Alethe, is admitted through the friendship of a tribune to the prison, whence she is to be led either to recant or suffer on the morrow.

'Even in yielding reluctantly to this brief respite, the inhuman priest would accompany it with some mark of his vengeance. Whether for the pleasure (observed the tribune) of mingling mockery with his cruelty, or as a warning to her of the doom she must ultimately expect, he gave orders that there should be tied round her brow one of those chaplets of coral, with which it is the custom of young Christian maidens to array themselves on the day of their martyrdom;—"and, thus fearfully adorned," said he, "she was led away, amid the gaze of the pitying multitude, to prison."

'With these details the short interval till night-fall—every minute of which seemed an age—was occupied. As soon as it grew dark, I was placed upon a litter—my wound, though not dangerous, requiring such a conveyance—and conducted, under the guidance of [illegible]

to the prison. Through his interest with the guard, we were without difficulty admitted, and I was borne into the chamber where the maiden lay immured. Even the veteran guardian of the place seemed touched with compassion for his prisoner, and, supposing her to be asleep, had the litter placed gently near her.

'She was half reclining, with her face hid in her hands, upon a couch—at the foot of which stood an idol, over whose hideous features a lamp of naphtha, hanging from the ceiling, shed a wild and ghastly glare. On a table before the image stood a censer, with a small vessel of incense beside it—one grain of which, thrown voluntarily into the flame, would, even now, save that precious life. So strange, so fearful was the whole scene, that I almost doubted its reality. Alethe! my own, happy Alethe! *can* it, I thought, be thou that I look upon?

'She now, slowly and with difficulty, raised her head from the couch; on observing which, the kind tribune withdrew, and we were left alone. There was a paleness, as of death, over her features; and those eyes, which when last I saw them, were but too bright, too happy for this world, looked dim and sunken. In raising herself up, she put her hand, as if from pain, to her forehead, whose marble hue but appeared more death-like from those red bands that lay so awfully across it.

'After wandering vaguely for a minute, her eyes rested upon me,—and, with a shriek, half terror, half joy, she sprung from the couch, and sunk upon her knees by my side. She had believed me dead; and, even now, scarcely trusted her senses. "My husband! my love!" she exclaimed; "oh, if thou comest to call me from this world, behold I am ready!" In saying thus, she pointed wildly to that ominous wreath, and then dropped her head down upon my knee, as if an arrow had pierced it.

'"Alethe!"—I cried, terrified to the very soul by that mysterious pang—and the sound of my voice seemed to reanimate her;—she looked up, with a faint smile, in my face. Her thoughts, which had evidently been wandering, became collected; and in her joy at my safety, her sorrow at my suffering, she forgot wholly the fate that impended over herself. Love, innocent love, alone occupied all her thoughts; and the tenderness with which she spoke,—oh, at any other moment, how I would have listened, have lingered upon, have blessed every word!

'But the time flew fast—the dreadful morrow was approaching. Already I saw her writhing in the hands of the torturer,—the flames, the racks, the wheels were before my eyes! Half frantic with the fear that her resolution was fixed, I flung myself from the litter, in an agony of weeping, and supplicated her, by the love she bore me, by the happiness that awaited us, by her own merciful God, who was too good to require such a sacrifice,—by all that the most passionate anxiety could dictate, I implored that she would avert from us the doom that was coming, and—but for once—comply with the vain ceremony demanded of her.

'Shrinking from me, as I spoke,—but with a look more of sorrow than reproach,—"What, thou, too!" she said mournfully,—"thou, into whose spirit I had fondly hoped the same heavenly truth had descended as into my own! Oh, be not thou leagued with those who would tempt me to 'make shipwreck of my faith!' Thou, who couldst alone bind me to life, use not thy power; but let me die, as He I serve hath commanded,—die for the truth. Remember the holy lessons we heard on those nights, those happy nights, when both the present and future smiled upon us,—when even the gift of eternal life came more welcome to my soul, from the blessed conviction that thou wert to be a sharer in it;—shall I forfeit now that divine privilege? shall I deny the true God, whom we then learned to love?

'"No, my own betrothed," she continued,—pointing to the two rings on her finger,—"behold these pledges,—they are both sacred. I should have been as true to thee as I am now to heaven,—nor in that life to which I am hastening shall our love be forgotten. Should the baptism of fire, through which I shall pass to-morrow, make me worthy to be heard before the throne of grace, I will intercede for thy soul—I will pray that it may yet share with mine that 'inheritance, immortal and undefiled,' which Mercy offers, and that thou,—my dear mother,—and I—"

'She here dropped her voice; the momentary animation, with which devotion and affection had inspired her, vanished;—and a darkness overspread all her features, a livid darkness,—like the coming of death—that made me shudder through every limb. Seizing my hand convulsively, and looking at me with a fearful eagerness, as if anxious to hear some consoling assurance from my own lips,—"Believe me," she continued, "not all the torments they are preparing for me,—not even this deep, burning pain in my brow, which they will hardly equal,—could be half so dreadful to me as the thought that I leave thee—"

'Here her voice again failed; her head sunk upon my arm, and —merciful God, let me forget what I then felt,—I saw that she was dying! Whether I uttered any cry I know not;—but the tribune came rushing into the chamber, and looking on the maiden, said, with a face full of horror, "It is but too true!"

'He then told me in a low voice, what he had just learned from the guardian of the prison, that the band round the young Christian's brow was—oh horrible cruelty!—a compound of the most deadly poison,—the hellish invention of Orcus, to satiate his vengeance, and make the fate of his poor victim secure. My first movement was to untie that fatal wreath,—but it would not come away—it would not come away!

'Roused by the pain, she again looked in my face; but, unable to speak, took hastily from her bosom the small silver cross which she had brought with her from my cave. Having prest it to her own lips, she held it anxiously to mine, and seeing me kiss the holy symbol with fervour, looked happy and smiled. The agony of death seemed to have passed away;—there came suddenly over her features a

heavenly light, some share of which I felt descending into my own soul, and in a few minutes more, she expired in my arms.'—pp. 299—306.

This concluding scene is affectingly drawn. It has, though not altogether free from them, less of affectation and conceit than the greater portion of the volume. It is followed by this supplement.

'Here ends the Manuscript; but, on the outer cover there is, in the hand-writing of a much later period, the following Notice, extracted, as it appears, from some Egyptian Martyrology:—

'Alciphron,—an Epicurean philosopher, converted to Christianity, A.D. 257, by a young Egyptian maiden, who suffered martyrdom in that year. Immediately upon her death he betook himself to the desert, and lived a life, it is said, of much holiness and penitence. During the persecution under Dioclesian, his sufferings for the faith were most exemplary; and, being at length, at an advanced age, condemned to hard labour, for refusing to comply with an Imperial edict, he died at the brass mines of Palestine, A.D. 297.—

'As Alciphron held the opinions maintained since by Arius, his memory has not been spared by Athanasian writers, who, among other charges, accuse him of having been addicted to the superstitions of Egypt. For this calumny, however, there appears to be no better foundation than a circumstance, recorded by one of his brother monks, that there was found, after his death, a small metal mirror, like those used in the ceremonies of Isis, suspended round his neck.'—pp. 306. 307.

As our philosopher's convictions against Christianity remained unshaken up to the night of his mistress's death, it is left to be concluded, that her death converted him, for she alone has the credit of the conversion. He is converted, therefore, not by reason, but by passion, as a philosopher of Mr. Moore's making ought to be.

In our preceding remarks, we have, for the sake of carrying on the story to its close, glanced briefly at some points which we shall now notice more in detail.

Mr. Moore has misrepresented the Epicurean philosophy, and the character of the later Epicureans. He has drawn an Epicurean according to the vulgar notion entertained of that character by persons who know nothing about the matter.

It is not consistent either with our limits, or with the importance of the subject before us, to give even a general outline of the philosophy of Epicurus. We shall merely give a specimen of it.

Epicurus taught that happiness is the end of life: that there is no happiness without pleasure: that all pleasure is in itself good, and that all pain is in itself evil; but that present plea-

sure is to be avoided in the prospect of future pain, and that present pain is to be endured for the sake of future pleasure: that the true and only permanent pleasure of man is peace of body and mind: that the state in which the body is without pain, and the mind without perturbation, is the perfect health of the whole man: that the peace of the body is to be obtained especially by two means—Temperance, or a sober and continent life, to keep off corporeal diseases which arise mostly from the opposite vice, and Fortitude to endure them with a constant mind, and not exasperate them by impatience: that beyond this all that concerns the body belongs to medicine: that Philosophy is the medicine of the mind, that the two capital diseases of the mind are Cupidity and Fear, of which Care is the incessant adjunct, as Pain is of the diseases of the body; the Cupidity, for instance, of honours and riches, and the Fear of the gods and of death; and that these diseases being the offspring of ignorance and error, are to be cured by knowledge and reason.

> "Hunc igitur terrorem animi tenebrasque necesse est
> Non radii solis nec lucida tela diei
> Discutiant, sed naturæ species, ratioque."—*Lucr.*

He taught that happiness, or the greatest portion of permanent pleasure, is only to be attained by strict obedience to the dictates of right reason; that strict obedience to those dictates constitutes the virtue called prudence, and that all virtue is either prudence or a derivative from it.

"It is not possible," he says, in the Κυρίαι Δόξαι, "to live pleasurably unless prudently, becomingly, and justly: nor to live prudently, becomingly, and justly, and not at the same time pleasurably: nor to live imprudently, unbecomingly, and unjustly, and not at the same time unpleasurably.

"Natural justice is the symbol of utility, or of that which conduces among men to prevent the inflicting, or suffering, of injury. Τὸ τῆς φύσεως δίκαιον ἐστὶ σύμβολον τοῦ συμφέροντος, εἰς τὸ μὴ βλάπτειν ἀλλήλους, μηδὲ βλάπτεσθαι.

"Universally considered, that which is just, or that which is most useful in the general society of men, is the same to all, but, particularly considered, it results from local circumstances and other causes, that that which is deemed to be just is not the same to all.

"Of those things which are generally held to be just, that which is proved by experience to be useful in the mutual necessities of society has the true character of justice, if it be the same to all. But if any do a thing which is generally

held to be just, and yet it result not to the common benefit of society, it has no longer the true character of justice."

Thus Epicurus first taught, that general utility, or as Bentham expresses it, "the greatest happiness of the greatest number," is the legitimate end of philosophy; and it is curious to see the same class of persons decrying the same doctrine as impracticably dry, when the word utility precedes the word pleasure, and as too practicably voluptuous when the word pleasure precedes the word utility. So much are small minds the slaves of words.

It may be said, however, that the doctrines of the Epicurean philosophy prove nothing for the practice of its disciples; and that as even the Church of England furnishes an occasional instance of a clergyman, who has no claim but his complexion, to be esteemed the pink of good living, so the school of Epicurus, which was a false light of the gentiles, may have furnished many such instances. But here we must appeal to experience.

Lucian, speaking of Alexander the false prophet, who publicly burned the ΚΥΡΙΑΙ ΔΟΞΑΙ of Epicurus, says: "The miscreant did not know of how much good that book is the cause, to those who fall in with it; how much peace and imperturbability and freedom it works in them, alienating them from fears and phantasies, and portents, and vain hopes, and superfluous desires; putting into them intellect and truth, and purifying most truly their opinions, not with torch and squill, and such like fooleries, but with right reason, and truth, and free speaking." "Ἓν γῦν καὶ γελοιότατον εποίησεν ὁ Αλέξανδρος· εὑρὼν γὰρ τὰς Επικούρου κυρίας δόξας, τὸ κάλλιστον, ὡς οἶσθα, τῶν βιβλίων, καὶ κεφαλαιωδῶς περιέχον, τῆς τ'ανδρὸς σοφίας τὰ δόγματα, κομίσας ἐς τὴν αγορὰν μέσην, ἔκαυσεν ἐπὶ ξύλων συκίνων, ὡς δῆθεν αὐτὸν καταφλέγων, καὶ τὴν σποδὸν ἐς θάλασσαν ἐξέβαλεν, ἔτι καὶ χρησμὸν ἐπιφθεγξάμενος·

Πυρπολέειν κέλομαι δόξας ἀλαοῖο γέροντος·

Οὐκ εἰδῶς ὁ κατάρατος ὅσων ἀγαθῶν τὸ βιβλίον ἐκεῖνο τοῖς εντυχοῦσιν αἴτιον γίγνεται, καὶ ὅσην αὐτοῖς εἰρήνην καὶ ἀταραξίαν καὶ ἐλευθερίαν ενεργάζεται, δειμάτων μὲν καὶ φασμάτων, καὶ τεράτων απαλλάττον, καὶ ἐλπίδων ματαίων, καὶ περιττῶν ἐπιθυμιῶν· νῦν δὲ καὶ αλήθειαν εντιθὲν, καὶ καθαῖρον, ὡς ἀληθῶς, τὰς γνώμας, ὁ δᾳδὶ καὶ σκίλλῃ, καὶ ταῖς τοιαύταις φλυαρίαις, αλλὰ λόγῳ ὀρθῷ, καὶ ἀληθείᾳ, καὶ παῤῥησίᾳ·"—Lucian. *in Pseudom.*

This is Lucian's testimony to the practical effect of the Epicurean philosophy on the character of its disciples. It would be easy, by a concise biography of many of the later Epicureans, from Atticus, Lucretius, Virgil, and Horace, down to Lucian and his friends, to show that the picture is

The very names we have mentioned, are among the brightest ornaments of the human race: and, without entering into any particulars of their lives, we shall simply say, without fear of contradiction, that none of them spoke or acted in any one point like Mr. Moore's hero. He has drawn a portrait of every thing that an eminent Epicurean was not, and presents it to us as a fair specimen of what he was. Hamlet's uncle might as fairly have sat for the portrait of Hamlet's father.

It is a crying sin of the work, that it sets at nought the power of education. To the latest hour of the existence of the schools of Athens, the chiefs of the schools were proficients in the philosophy of their masters. We have seen what the Epicurean philosophy was, and what were its effects on the character of its disciples. The language of Mr. Moore's hero shows as little trace of any knowledge of the principles of that philosophy, as his conduct of any practical obedience to its precepts.

There was nothing on which the Epicureans more strongly insisted, than on their favourite dogma of the mortality of the soul. "Death," says Epicurus, "is nothing to us. All good and evil are in sensation, and death is the privation of sensation. The right knowledge of this truth, that death is nothing to us, makes the mortality of life a source of enjoyment; not adding an uncertain time, but taking away the desire of immortality. For there can be nothing terrible in life to him who clearly perceives that there is nothing terrible in the privation of life. So that he is a fool who says he fears death; not because it will give him pain when present, but because the anticipation of it is painful. For it is vain to fear the arrival of that which will cause no annoyance when arrived. Therefore, the most fearful of evils, death, is nothing to us, since while we are, death is not present, and when death is present, we are not. Death, accordingly, concerns not either the living or the dead; since it touches not the living, and the dead have no feeling of its presence.

"But the many shrink from death, both as the greatest of evils, and as the cessation of the things of life. But it is vain to fear the privation of life, when in that privation there is no life to judge, if there be any evil in the privation."

This doctrine his disciples inculcated, never in the language of regret and despondency, but always in that of exultation and triumph. Their philosophy trampled under its feet the fear of death and of Acheron:

> —— Metus omnes et inexorabile fatum
> Subjecit pedibus, strepitumque Acherontis avari.

Nil igitur mors est, ad nos neque pertinet hilum,
Quandoquidem natura animi mortalis habetur, &c.—*Lucr.*

Post mortem nihil est, ipsaque mors nihil,
Velocis spatii meta novissima, &c.—*Seneca. (Tr.)*

They were so little conscious of the error of their way, that they considered the hankerers after immortality as the lowest of the human race, and regarded them with measureless contempt.

Tu verò dubitabis et indignabere obire,
Mortua quoi vita est propè jam vivo atque videnti ?
Qui somno partem majorem conteris ævi ?
Et vigilans stertis, nec somnia cernere cessas,
Sollicitamque geris cassâ formidine mentem ?—*Lucr.*

The belief in the verity of dreams, they classed with the lowest credulity, with the belief in witchcraft, and raw-head-and bloody-bones.

Somnia, terrores magicos, miracula, sagas,
Nocturnos lemures, portentaque Thessala rides ?—*Hor.*

In England, we all believe in the immortality of the soul, and some of us believe in the verity of dreams; but, we repeat, the question is not what we think of these matters, but what the Epicureans thought of them; and, knowing what we know of the Epicureans, both in respect of their theories and their practice, we must say, that there never was a more outrageous speculation on the extent of public ignorance, than to send the chief of the sect on such an errand as the quest of immortality, in obedience to such a counsellor as an old man in a dream.

The hero's violent and exclusive passion, which is the mainspring of the entire narrative, is as much out of character as the motives of his visit to Egypt; and not a whit less so are many of the minor circumstances. He is influenced by omens as well as by dreams. He is scared by a skeleton, and awed by a mummy. He has no more morality than any ordinary "gay deceiver," and makes a substitute for it out of a chivalrous feeling, which scarcely existed before the days of Orlando Innamorato.

We think we could enlighten Mr. Moore with respect, not merely to the Epicurean, but the general Greek notions of love; but this is not the time and place. We shall not enter into the minor misprisions of character. We shall content ourselves with citing from Diogenes Laertius a few precepts of the Epicurean philosophy, which this precious specimen of a disciple and successor most flagrantly violates.

"Ἐρασθήσεσθαι τὸν σοφὸν ἃ δοκεῖ αὐτοῖς, οὐδὲ θεόπεμπτον εἶναι τὸν Ἔρωτα."—"They consider that the wise man will not fall in love, and that love is not of divine origin." Our hero falls in love like a knight-errant, and talks of the sacredness of his passion like a Petrarch.

"Οὐδὲ ῥητορεύσειν καλῶς."—"Not to write in a style made up of figures and flourishes." Our philosopher's style is made up of nothing else.

"Οὐδὲ νυκτερεύσειν ἐν μέθῃ."—"Not to pass the night in getting half-seas-over." Our philosopher, before he falls in love, passes the greater part of his nights in this fashion.

"Τύχῃ τε ἀντιτάξεσθαι."—"To be well prepared against fortune." No man is less so: he is in a fever and a frenzy at every change.

"Ποιήματά τε ἀγνοήσειν, οὐκ ἄν ποιήσειν."—"To abstain from all knowledge of poems, and not to make any." We cannot say that our hero has any knowledge of poems, or that there is not very satisfactory evidence of his abstaining from all knowledge of them, and of every thing else: but he makes a few in the style of sir Hugh Evans's favourite ditty, about fragrant posies and beds of roses, and

> "Shallow rivers, to whose falls
> Melodious birds sing madrigals."

If our hero had transgressed this precept to as much purpose as Lucretius, it would be a very different matter.

The author has misrepresented the Egyptian Mysteries almost as much as the Epicurean Philosophy; and we intended to have said something on this head, but we have already exceeded the limits which we proposed to assign to this work. It would be easy to show that Mr. Moore has not provided himself with any portion of that information respecting the Mysteries which the classical authors afford, and that he has contented himself with travestying a portion of a forgotten French romance; but it would be a waste of time to discuss these matters with an author who elects a pregnant woman a priestess of Isis; and it is a matter more of curiosity than of importance, to ascertain the precise nature of the solemn farce, which the priests of an exploded religion enacted in the bowels of the earth. It is of much less consequence to us to set this point in a clear light, than it will be to our posterity to erue from the rust of antiquity the genuine representation of Punch, if that most entertaining personage should ever be incrusted with that perilous arugo. Mr. Moore's picture resembles what it professes to represent, at least as well as Macedon [illegible] mouth: "there

are mummeries in both;" quite enough, we hope, to save him from the vengeance of Isis. But the doctrines and character of Epicurus and his followers it will always be important for mankind thoroughly to understand and appreciate, and for all who love mankind to liberate from that mass of misrepresentation, which the deluders and deluded of all ages have heaped upon them, and not permit them to be made with impunity the playthings of a petty carping at popularity among the most worthless, though, unhappily, not the least influential, portion of the reading public.

The work is evidently that of an author aiming at popularity. Every page, every sentence, is written manifestly *ad captandum.* We always see the actor with his eye on the audience.

For an author recognised by all the Magazines as a "brilliant and sparkling" genius—assumed by himself and his friends to be a most accomplished classic—having written, and in part composed, many scores of tender madrigals, which have been warbled by half the marriageable misses, in half the drawing-rooms of the three kingdoms—having trespassed so far beyond the bounds of every-day opinions, as almost to incur the suspicion of being a whig—for such an author, so learned, so accomplished, and so popular, to offer up such a homage to fashionable truth, as to immolate his Athenian idols on the altar of blue sanctity, it might be expected there would be more rejoicing over him in the cœrulean heaven, than over ninety-nine established sermonisers and regular inditers of tracts: and so we believe it has turned out. The book reads on lightly and pleasantly. It commits no sins on the score of knowledge, which the audience it is made for is likely to detect; it commits no material offence, except against what was thought good taste in Athens, and against the doctrines and memories of all that is most illustrious in the Pagan world; and, if that be an error, it is a pious one, and the author is to be the better loved for it.

The "Quarterly Review" made a very good hit, by demonstrating to the satisfaction of the orthodox, that the character of Socrates was much more correctly drawn by Aristophanes, than by Plato and Xenophon; that, in short, Aristophanes himself was the great philosopher of Athens, and that Socrates being given to thinking, and other villanies, especially to a most lewd propensity of enlightening the people, was a very fit subject to be twice executed, first, in a farce, and afterwards by the finisher of the law. We believe these articles of the Quarterly have nothing *simile aut secundum* in letters, excepting Jack Cade's judgment on lord Say; and, as a portion of our morbid anatomy of the periodical press, we may one day exhi-

bit them to the public, stripped of the integuments of cant, sophistry, and false learning, in which they are enveloped.

The notes are chiefly remarkable for a display of reading, the value of which may be judged of by one or two specimens.

Mr. Moore thinks the Egyptians were not negroes, and that they were very handsome people.

'De Pauw, the great depreciator of every thing Egyptian, has on the authority of a passage in Ælian, presumed to affix to the country-women of Cleopatra, the stigma of complete and unredeemed ugliness. The following line of Euripides, however, is an answer to such charges :—

'"Νειλε μεν αιδε καλλιπαρθενοι ῥοαι." '—p. 310.

In this small space are two great misprisions. Cleopatra was a Greek, the daughter of Ptolemy Auletes. The Egyptian women were as much the countrywomen of Cleopatra, as the Hindoo women are the countrywomen of lady Hastings. And with respect to the line of Euripides, which is the first line of Helena, the allusion is so obviously to the nymphs of the stream, that it seems scarcely possible for any reader, even moderately familiar with the Greek poets, to apply it to the mortal maids of the land. If Euripides had been thinking of the latter, he would at least have placed them on the banks, and not in the water.

This line signifies, according to Mr. Moore, "These are the streams of the Nile, famous for pretty girls." Certainly a very odd beginning for a tragedy, and entirely unique in the relics of the Greek drama. Euripides had no such stuff in his thoughts. Helen speaks of Nilus not simply in his aquarian, but conjointly therewith in his mythological character: the fair virgins of his streams are his daughters, Memphis, Achirrhoë, &c. some of whom gave their names to the cities of the Nile.

Nothing can be more ludicrous than the ovant air with which Cleopatra and the nymphs of the Nile are brought in to settle a controversy about the beauty of the Egyptian women.

"The Nile, Pliny tells us, was admitted into the Pyramid :" says Mr. Moore, as an illustration of the torrent in which his hero escapes drowning by miracle.

Pliny's words are these :—"In pyramide maxima est intus puteus octoginta sex cubitorum: flumen illo admissum arbitrantur.—Plin. *H. N.* xxxvi. 17.

So because Pliny says that there was a well in the Pyramid to which the Nile was supposed to be admitted, Mr. Moore makes him vouch for a subterranean torrent under it. The

Thames is admitted into a cistern in our kitchen, much in the same way as the Nile may have been into the well in the Pyramid; but it by no means follows from this, that we can bring the power of a waterfall to bear upon our cook, and float her into the area at a moment's notice.

If such a torrent as Mr. Moore describes had been played off under the Pyramids during the inundation of the Nile, what was, or could be, its outlet? And what relation of level would the outlet bear to the inlet? A gentleman, who amuses himself with conveying rivers under ground, should understand something of hydraulics.

"Plato speaks of a pure land lying in the pure sky, *την γην καθαραν εν καθαρω κειϑαι ουρανω.*" [p. 318]. (We print Mr. Moore's Greek as he prints it himself). Mr. Moore shows a sublime contempt for the article, for Plato speaks of "*the* pure earth lying in the pure sky, in which the stars are:" *αὐτὴν δὲ τὴν γῆν καϑαρὰν ἐν καϑαρῷ κεῖσϑαι τῷ οὐρανῷ, εν τῷ περ ἐστὶ τὰ ἄστρα*: an imaginary elevated portion of our own earth only, and not a detached "luminous world above the shadowless stars," as Mr. Moore seems to suppose.

Mr. Moore, in quoting Greek, always omits the subscribed iota. Is he not aware that it is as much a letter as any in the word? He is very fond of parading scraps of Greek, and on one occasion treated the public with a Greek ode, which is still an unrepented sin, as we see it figuring in every new edition of his Anacreon. In this ode, measuring, as he manifestly must have done, by accent, and not by quantity, taking the metre of the Battle of Roncesvalles,

Sad and fearful is the story,

for the modulation of that form of the Iambic Anacreontic metre, which begins with an anapæst,*

Ἐπὶ μυρσίναις τερείναις,

* Hermann (agreeing in the opinion of Varro, as given by Terentianus Maurus) places this metre in the class of Ionics; because it is permutable with the Ionic à minori acatalectic dimeter; because the numbers are the same with those that terminate the Ionic à majori brachycatalectic tetrameters: because the doctrine of the Scholiast on Hephæstio, of Draco Stratonicensis, Elias Monachus, and others (who speak of a mode of dividing the Anacreontic metre into members of six and two verses each; the six being called *οἴκοι* and the two *κουκούλιον*; the *οἴκοι* consisting each of an anapæst, a diiambus, and an odd syllable; the *κουκούλιον* of a double series of alternate pyrrhics and spondees in trimeter; of which combination there is, however, not a single clear instance among the Anacreontic relics, although there is

(which is of a class distinct from other forms of Anacreontic metre, even from the Iambic form, beginning with an Iambus; and most especially rejects all association with the Trochaic; the odes for the most part being monostrophic, and bearing, with a few established liberties, very sparingly used, each the same form throughout) he mixed up Iambic catalectic dimeters,

Μεθυων τε και λυριζων,

with Trochaic acatalectic dimeters,

Ουκ εμες νομες διδασκων,

as if they were isochronical, and violated the rules of both metres, by putting long and short syllables promiscuously in every part of the line, adhering solely to the modulation of "Sad and fearful is the story:"

Επι ῥοδινοις ταπητι—
Τηϊος ποτ' ὁ μελιστης—
Η δε θεαων ανασσα—
Αιει γ' ετρυφησας ἀδων—
Ὅτι, θεα, σε γ'ανευ μεν.

He at the same time stuck the poor particles into any part of any sentence, as if their sole use were to eke out a limping verse—

Αμφι αυτον οἱ δ' Ερωτες—
Σοφε, δ' ὡς Ανακρεοντα, &c. &c.

aberred widely from the true meaning of several very ordinary words; manifested as splendid a disdain of articles as of particles; and committed, in short, as many sins against language, syntax, and prosody, as it was almost possible to perpetrate within so small a compass.

We have noticed this ode in this place, because it is of a piece with the Greek pretensions which Mr. Moore is always putting forth: because it is, as we have said, an unrepented sin: and because it is doubly curious as illustrating, at once, the sort of thing that passes with the multitude for scholarship, and the materials of which the great herd of trading critics is made, seeing that none of the gentry who professed to review Mr. Moore's Anacreon took any notice of the matter.

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one rough specimen of something like it, which Hermann has endeavoured to lick into shape, but which is, after all, nothing but a bundle of fragments), so far favours this opinion, as that, if both the οἶκοι and κουκούλιον must have one denomination, that denomination must be Ionic: and for several other [illegible] are specious, if not convincing.

The notes, which are numerous, are mostly of the same character with those we have cited: Herodotus says this, Euripides says that, Plato says the other: small scraps of many authors, raked together, manifestly, not by reading but by dipping, and making a display very nearly equivalent, both in manner and matter, to the series of learned labels on an apothecary's empty boxes: the object of them being, undoubtedly, to establish the author's claim to careful research and minute accuracy, which would be all very well if it were well-founded, and made subservient to good purposes: but here, as it seems to us, it is not well founded, and is subservient to a purpose very far from good—that of establishing the fidelity of the author's picture of a chief of the Epicurean School of Philosophy: for, if the author had been so scrupulously correct in his minutest details, it would have seemed to follow, that he had been most especially so in the main point of his book—the character of his hero: whereas, he is as inaccurate in the smaller matters as he is altogether wide of the mark in the greater.

Aut prodesse volunt aut delectare poetæ. The *prodesse* Mr. Moore probably does not value; he confines his aim to the *delectare.* But he could have found abundance of playthings for the grown children of society without dressing up in false apparel the chief of an Athenian School of Philosophy to play the fool and coxcomb for their entertainment. If he had wished to amuse the public with *ces Egyptiens si fameux par des monceaux de pierres,* and had left the Athenians alone, it would, at any rate, have been as innocent amusement as his previous florilegia in Ireland, Persia, and Paradise. But when he steps out of his way into the garden of Epicurus, and commits havoc among the roses planted by that illustrious philosopher,

> "Qui genus humanum ingenio superavit, et omneis
> Præstinxit, stellas exortus uti ætherius sol,"

he must be treated like a mischievous boy in a flower-garden, and turned back into the fields where he has been accustomed to pick nosegays with impunity. And, with respect to this nosegay-making operation: a man who, in a course of serious study, picks flowers in his way, and a man who takes up books which might be materials of serious study, for no purpose but to pick flowers out of them, will each produce a fasciculus, which, though they may be somewhat similar in show, will carry with them indisputable evidence of the *modus operandi* of their respective collectors. The first cannot fail to afford evidence that he has a thorough knowledge of the entire field of his operation, nor the latter that he is a mere here-there-and-away

visitor, whose whole acquaintance with the matter is confined to what he has carried off for exhibition. Nothing really valuable can result from such a process: nothing permanently agreeable: nothing even temporarily so, except to the ignorant. He who aims (we will not say at utility—Mr. Moore despises the word—but) at reputation beyond the hour, will take a very different course. He will go really through the preliminary labour of accumulating all that is essential to his object, instead of making a vain parade of scraps and fragments, which will be found, on due examination, to be not the relics of a rich table, but the contents of a beggar's wallet. *Multum enim præstat, etiam magni laboris exiguum fructum reportare, quàm non explorato fundamento superstruere, quæ levi impulsu ruitura prævideas.**

Even if the work had merits of any kind, poetical, descriptive, narrative, or dramatic, much higher than any which it, in our judgment, possesses, they would scarcely reconcile us to the total absence of any moral purpose in a work of so much pretension. Still less, of course, can we consider its merits, such as they are, in these respective kinds, and we have given very fair specimens of them all, as affording any compensation for the heavy delinquency of misrepresenting the Athenians, traducing the noblest philosophy of antiquity, and setting forth the impotence of philosophical education in the formation of moral character.

ART. V.—*Horæ Juridicæ Subsecivæ; being a connected Series of Notes respecting the Geography, Chronology, and Literary History of the Principal Codes and Original Documents of the Grecian, Roman, Feudal, and Canon Law.* By Charles Butler. 8vo. London. 1817. pp. 147.

ON the revival of the study of the Roman, or Civil Law, at the end of the twelfth, and the beginning of the thirteenth century, when Portius Azzo taught at Bologna, the number of his students was often so great, that he was obliged to leave his school, and to deliver his lecture in the open air, and in the public square. The zeal of the professor was so warm, and he was so fond of teaching, that he used to say, he was never happy but when he was lecturing, and never ill, except in the vacation; the zeal of the master is the most powerful means of collecting a large audience, whatever be the science of which

* Hermann. in Præf. ad Eurip. *Herc. Fur.* P. xi

he treats: the greater part, therefore, of his ten thousand scholars—it is reported that they sometimes reached that number—must be set down to that cause; yet, after making every allowance for his extraordinary merit, it is evident that the study of the Roman law must have been extremely attractive in those days. When the Civil Law was introduced into England in the reign of Stephen, by Theobald, and Roger, surnamed Vacarius, and was publicly taught at Oxford, it was adopted with great eagerness, and so many students flocked to the lectures, that Giraldus, of Oxford, complains that they were too numerous: the professors of the other faculties uttered loud lamentations, that all other pursuits were neglected; and the clergy, who are always jealous, and never without some pretext to mask their jealousy, openly and assiduously grieved, because the more important study of the holy scriptures was postponed to this worldly science. The result was, that the study of the Roman Law was positively forbidden by the government: when it was subsequently recalled from banishment, we read that there were many famous professors at Oxford (there have not been many of late years); it appears nevertheless that, from various causes, it never took deep root in England. We have had no reason to boast of the number or excellence of our jurisconsults: on the contrary, we may lament, in the language of the emperor Theodosius, "quod tam pauci extiterint qui juris civilis scientiâ ditarentur, et soliditatem veræ doctrinæ receperint." It is nearly two hundred years since sir Robert Wiseman, in "The Law of Laws; or the Excellency of the Civil Law above all other humane Laws," complained "that the solid reason of that law was crowded out by vulgar reason, the professors thereof scattered, the study thereof discontinued, and the very law books, for want of use here, all transported beyond sea to other nations;" and half a century ago, lord Kames wrote thus—"Were law taught as a rational science, its principles unfolded, and its connexion with manners and politics, it would prove an enticing study to every person who has an appetite for knowledge; we might hope to see our lawyers soaring above their predecessors, and giving splendor to their country by purifying and improving its laws." [*Elucidations respecting the Common and Statute Law of Scotland.*] Whatever may have been our riches or poverty in times past, it is certain, that at present all knowledge of the Roman Law has almost entirely disappeared from the land, and that a "Prosopographia, seu Index Personarum omnium," who know any thing about the matter, would be small indeed. The office of Professor of Civil Law at both our Universities is nearly a

sinecure; the examinations and lectures empty ceremonies, and the degrees vain titles. If an honorary degree is to be conferred, it is a degree in law, and the once honourable title of LL. D. is given almost to every one who will pay for it; to a Muscovite emperor, or a Prussian serjeant. In an article in a late Number of the Quarterly Review, written expressly in defence of our Universities, as far as they are defensible, and a little farther also, not a word is said by the Reviewer to excuse the neglect of this study at Oxford. As to Cambridge, we find this lame story: "We ought to mention, that the Professor of Civil Law at Cambridge, where there is a college expressly endowed for this study, obliges all law students to attend his lectures and examinations, and has of late years published the names of those who distinguish themselves, classed in the order of merit; but as the university at large have little interest concerning these proceedings, in which he is sole arbiter, his honours, like foreign titles, lose the greater part of their dignity the moment they pass the confines of the small territory where they have been conferred" [No. LXXI, p. 262]. Much more vigorous efforts than the learned Professor appears to be inclined to make, are necessary to rouse a plethoric university from its deep and long lethargy. Our practical lawyers entirely neglect two most important branches of professional knowledge—the study of what law has been in other countries and in times past, as the study of the Roman law, and of what law ought to be, of Jurisprudence, or general law. Lord Stair well observes, "No man can be a knowing lawyer in any nation, who has not well pondered and digested in his mind the common law of the world, from whence the interpretations, extensions, and limitations, of all statutes and customs must be brought." [*The Institutions of the Law of Scotland.*] The consequences of this neglect are extremely injurious. The natural fruits of England are the sloe, the acorn, the hip, the haw, and the bramble-berry, to the austerity of which the Picts were reconciled by their ignorance of any thing better; but they are intolerable to a palate accustomed to the grapes and figs of Italy: nor are our law-books less revolting to a cultivated understanding, than those savage fruits to our present taste. If we could persuade the authors of the innumerable law-books which issue from the press, to [illegible] more refined, what a consolation would it be for th[illegible] to read them; and if we could but get our judge[illegible] barbarous, what a relief would it be for t[illegible] and listen to them. We have various treati[illegible] yers, on the law of evidence and on [illegible]

the chief merit of such treatises is, that in general we do not know any others. The confined education which our magistrates receive, not only renders their style rude and inelegant, but it has a much more pernicious effect: it may, perhaps, appear strange, yet it is true, that the study of polite letters, of which the Roman law is a part, makes men liberal, whilst an acquaintance with our municipal law alone has the contrary effect. In Rome the judges frequently exerted themselves in favour of liberty, and most commonly in France also, although there are some exceptions in both countries; but here, on the contrary, they have generally been the supporters of tyranny and oppression, and often to a most outrageous excess. Some sensible, but too sensitive, persons have been so much disgusted by the barbarisms and bigotry of men who were merely practitioners, that they have not only shunned all communication with the dregs of an unmellowed rabble, ("quis ferat illam inconditæ multitudinis fæcem?") but they have renounced all participation in forensic practice; and it is said the immortal Cujas was of the number; it seems, however, more probable that he had found that it was impossible to unite the occupation of an advocate with the severe studies which must have been required in order to attain to the profound knowledge of Roman Law and antiquities for which he was so eminently distinguished. "Usus verò forensis non tantum fuisse ignarum, sed cupidum quoque dediscendi, si quid imbibisset; ne a Romano jure distraheretur." It is certainly by no means desirable to forget whatever any one may be so fortunate as to have imbibed of forensic use. The knowledge of law in practice is no small assistance to the knowledge of the theory of law; it may be said to be even indispensable, for general knowledge is necessarily derived from the induction of particulars, and that a lawyer, who is not well acquainted with both, is at best but imperfectly educated. The advocate whose instruction has been merely pragmatical will have necessarily all the vices of the barbarian; but the mere theorist who is familiar with books alone will be helpless in actual warfare: he will be deprived of a part of the armour necessary for protection, and of the weapons he may want for attack. If an authority be needful to prove the expediency of an intimacy with the tribunals, Varro, the most learned of the Romans, enjoins that the first principles of inquiry, and for the conduct of affairs, be taken from books, and that the mind be perfected in a science by actual practice. "Multum interest utrum rem ipsam, an libros inspicias. [illegible] nisi scientiarum paupercula monimenta sunt: prin- [illegible] continent, ut ab his negociandi principia

sumat animus." Men of great experience and great knowledge of practice have too often been totally ignorant of all legal learning, at least, of all but the system of municipal law, in which their own practice lay; and great scholars have too frequently been mere book-worms, unacquainted with the concerns of life, and the practical effect of laws: it is difficult, no doubt, to hit the happy medium; it is certain, however, that at present our lawyers are in the former extreme. It would be unjust, to deny that the laws of England are in some respects superior to those of ancient Rome; but as to the feudal law of real property, and the style of our legal instruments and acts of parliament, in comparison with the Roman law in those particulars, no censure can be too strong. If we confine the blame to those two points, the words of the indignant Gravina, respecting the laws of the Lombards in general, may fairly be applied to them; we may justly term them "belluinas, atque ferinas, immanesque leges." The language of the principal portions of the Roman law is admirable and beautiful; whoever has attained to even the slightest knowledge of it has eagerly paid the full tribute of his entire admiration. An anonymous epigrammatist says,

> "Credo ego si linguæ Ciceronis imago perisset,
> E juris posset Corpore restitui."

A great master of language, and consequently a very competent judge, declares, "Quamquam enim jurisconsultorum, quorum fragmenta retinemus, plerique Latinitate jam inclinata floruerunt; studio tam en ac religione verborum, qua maxime scientia legum adservabatur, ita excellebant, ut auream propè Latinitatis ætatem elegantia, et proprietate reddidirent."—[*Gravina*]. If there be any colour of authority to sustain the heresy which some audacious critics have ventured to propagate, that the Latin language is an improvement upon the Greek, it must be derived from the legal compositions: the style of the Roman jurisconsults, we must acknowledge, is as much superior to that of the Grecian lawyers of every age, as the Greek writers on every other subject transcend the Latin: then, if the writings on law be more important than all those on all other subjects, a consequence will follow to which a discreet person would not venture to give utterance. As many and as important authorities might be cited to show the merit of the Roman law in other respects, as might have been brought in favour of the elegance of its language, but it is always more satisfactory to adduce a reason than an authority, and the most cogent and conclusive proof is e let any one who has doubts, or who would know, nd if

the flavour suit his palate, he can have no room for scepticism. It will be expedient, however, briefly to refer to a few witnesses, not so much on account of what they have said, as for the sake of the speaker, or his manner of speech. Antonio Augustini, a distinguished ornament of the Civil law, and one of the main pillars of the Canon law, a Spaniard, an archbishop of Tarragona, a nuncio from his holiness to the king of England, and a remarkable person at the Council of Trent, testifies, with a singular grace, to the general attractions of the Roman law—" Neque enim existimo te illorum probare sententiam, qui juris scientiam carere volunt omni, non solum ornatu, sed etiam succo et sanguine, quæ ex utriusque linguæ cognitione, antiquitatis temporumque peritiâ, toto corpore cognoscitur esse diffusa." The learned Gerard Noodt, in his first dissertation on civil prudence, perhaps with a little Batavian rhetoric, but certainly with much truth, points to this study as the infallible means of acquiring an intimate knowledge of the Romans, both in public and private—" Jam si quem capiat laudabilis impetus noscendi Populi Romani, munera, mores publicos, privatos, veteres, novos; si sobrietatem, luxum, delicias, elegantiam, in urbe, ruri, in ædibus, villis, hortis, in nuptiis, funeribus; alibine uberior hujus doctrinæ fons, aut copiosior materia, quam ubi de his ex testamentis, codicillis, pactionibus negotiis omnis generis lites et juris quæstiones exercentur. Sed est incredibile, quantopere hæc et alia Pandectarum fragmentis, et utriusque Codicis, cum Theodosiani, tum Justinianei constitutionibus illustrentur. Non repugnem AA. volenti Juris Civilis corpus appellare sacrarium, vel thesaurum, omnium quæ domi, quæ foris, quæ privatim, quæ publicè, bello, pace, in judiciis, in jure, in senatu, in comitiis, apud Principem, sapienter, aut temerè, facta sint a summis, mediis, infimis." [*Dissertatio prima de Civili Prudentiâ*]. Livy speaks gravely of the most wise fountain of the Roman law, " in sapientissimo Juris Romani fonte;" and sir Matthew Hale, a great and reverend authority, as we are informed, " set himself to the study of the Roman law; and though he liked the way of judicature in England by juries much better than that of the civil law, where so much was trusted to the judge, yet he often said that the true grounds and reasons of law were so well delivered in the Digest that a man could never understand law as a science so well as by seeking it there, and therefore lamented much that it was so little studied in England." [Burnet's *Life of Hale*]. The united testimony of history tells us that, even in the most unphilosophical times, the Roman law was studied with a certain philosophical spirit, and we cannot fail to infer, that if it were

studied philosophically in times when the temper of society is liberal, we might confidently anticipate the best results. It is certain that some of the most delightful books in existence, delightful in all respects, treat of the Civil Law. We always find that persons who have studied any science are desirous to induce others to tread in the path which they have themselves trodden; but perhaps in no other branch of knowledge do we meet with so much zeal as in those who have made the Roman law their favourite pursuit: they are remarkably desirous to induce others to participate in studies that have been the means of much improvement and of high gratification to themselves. It is impossible to be a perfect classic without some acquaintance with the Roman jurisprudence, or to be a profound lawyer without considerable classical acquirements; it is certain, "ad summam eruditionem veteris juris notitiam, et ad plenam atque maturam jurisprudentiam reconditam et exquisitam eruditionem pertinere." This study is an admirable exercise both of the Greek and Latin languages; it brings into practice the knowledge of morals, logic, grammar, rhetoric, history, and antiquities: it is therefore the best drilling that can possibly be devised. A knowledge of Greek is of prime importance to the jurisconsult; we owe much of the utility of Cujas to his great skill in that language.

Of the excellencies of the style of the Roman lawyers, one of the most striking is their extreme brevity. "Lucemque brevitatis his intulit," says the emperor Theodosius: whatever lights may shine in the laws of England, they certainly want the light of brevity. "Discussis tenebris compendio brevitatis lumen legibus dedimus," says the same emperor in another place; and again in his code we see the expression "lux sola brevitatis." Darkness is more agreeable to our legislators than light; nor do our conveyancers strive to imitate the Roman brevity, and to make a will in five words. "Quinque verbis potest quis facere testamentum, ut dicat, Lucius Titius mihi hæres esto" [D. 28, t. 5, l. 1]. It is afterwards said that three words would suffice, as "Titius hæres esto;" or even still fewer. It has been conjectured with some ingenuity, that the condensed style of the ancients was caused, in great measure by the scarcity of the materials for writing: it seems more probable, that the terse beauty of the Roman laws, and especially of the lapidary style in general, was occasioned by the difficulty of cutting the characters in marble or brass, and by the very limited space that was allotted to the inscription.

The lawyers in England and France were [illegible] extremes in their legal education; with us the

Roman law was entirely neglected; in France, on the contrary, they omitted to study the municipal law, and devoted themselves almost exclusively to the Roman. "Une partie," says the learned Hotman, "de la jeunesse de France est employée en l'éstude des livres de Justinian, lesquels on appelle communément le droit civil: et pour cet effet sont fondées ces grandes et fameuses Universitéz d'Orleans, Bourges, Angers, Poitiers, Valence, Thoulouse, et autres: mesmes sont envoyez les jeunes hommes jusques en Italie pour continuer leurs éstudes à Boulogne, Padoüe, Pavie, et autres escholes dudit pais, afin qu' ayans passé environ cinq ou six ans de leurs jeunes ans en ces Universitez, ils se mettent au Palais et Cours souveraines pour apprendre (ainsi comme ils disent) la pratique; et s'avancer aux honneurs, estats et offices de judicature" [p. 2]. It may seem ridiculous to give the preference to the study of the Roman law, instead of the municipal, yet in France it was attended with a good effect; the minds of the judges were liberalized thereby, and many of their advocates and judges have consequently obtained an European reputation, whilst of ours scarcely one is known by name out of England, or even in England, beyond the precincts of Westminster-hall. By learning that a system of law respecting real property may subsist without the feudal trash, lawyers were more inclined to get rid of it; and we may attribute their having shaken off the feudal chains, and whatever merit there is in the Code Napoleon, to the attentive study of the Roman law. A person who has learnt only one system of municipal law is apt to grow enamoured of the very defects of that system; they appear to be necessary, and in time they seem no longer to be faults, but so many beauties: his mind becomes as narrow as that of an officer of a court; its more valuable faculties pine and waste away, and finally all traces of them disappear. A lawyer, who knows nothing, save the practice of the Court of King's Bench, or of Chancery, is hardly to be ranked with men; surely not in a higher class than the hackney-coachman, who is familiar with all the streets, and narrow, tortuous, dark, and muddy lanes of our vast metropolis. It is doubtless most desirable to study the Common law, and also the Roman; to hold to the one, and not to omit the other; but, if it were necessary to choose between the English and the French course of education, however paradoxical it may appear, it would, perhaps, be better to elect that a young man should be instructed in liberalizing studies, than that he should know absolutely nothing but what he can learn at the chambers of a conveyancer, or special pleader, and, to complete his degradation, as some recommend, in the office of an attorney. It is best to be both, but, if a man

were required to choose, it would be better to be a reasonable being than a great English lawyer. A slight acquaintance with the Roman law will turn the scale against Hotman, but even if there be much truth and force in his objections, the study will not be without its use, for a system of law is instructive, not only on account of what it is, but on account also of what it is not; it is useful to point out defects, and the ill consequences thereof.

The character of the emperor Justinian has been the subject of various discussions. Many of the ardent admirers of the Roman law have conceived, that it was necessary to the credit and well-being of their favourite science, that the great editor of the Body of the Law should bear an unblemished character, and also his principal minister Tribonian; they have laboured hard, therefore, to rescue those two famous names from the discreditable imputations that have been heaped on them with an unsparing hand. The authenticity of the Ανεκδοτα, or Secret History of Procopius, in which Justinian is painted as a frightful monster, has been consequently the subject of extensive discussion amongst civilians. Many jurisconsults have been of opinion, that the merit of a law was not tarnished by the personal imperfections of the legislator; and even admitting the Secret History to be spurious, they think that other historians supply sufficient evidence to condemn the emperor. Without abating a jot of their admiration for the law, they surrender the fame of the imperial compiler to the severities of those who choose to vituperate him; and retaining all their respect for the great Tribonian, as an author, they admit that, as an individual,

"——— fixit leges pretio atque refixit."

It is a question with disputants, whether Justinian did good or harm in publishing the Pandects. It is said that the books of Justinian do not contain one twentieth part of the Roman law; that after the publication of the Pandects, the writings of the earlier lawyers were destroyed, as being superfluous, or, at least, that students neglected to preserve and to copy them; that Tribonian selected his authorities chiefly from the works of Greeks, Syrians, and Africans, or, at least, from the moderns, and not from the ancient and Roman lawyers; that, if the selection had never been made, we should most probably be richer in legal authors, for some of the compositions of the jurisconsults of the best ages of jurisprudence would have been preserved entire. Francis Hotman asks, "What man is there so hostile to the Muses, and such an enemy to nature, as to consent to accept in exchange for the [illegible] [illegible]er and Virgil, the Commentaries of Eustathius [illegible] [illegible]thers

maintain, on the contrary, that the last law books are the best: that, although the treatises of the early writers may have been very admirable, yet the advantage of the experience of their predecessors, which the successors enjoy, far outweighs every other consideration; that the works of the son are more precious than those of the father, and that these must yield in turn to the superior merit of the grandson's lucubrations; and that a body of laws, although it may be as valuable as the Palladium, was never known to fall from heaven, like that statue, ready made and complete, but has ever been gradually and slowly elaborated in a long succession of ages. As Gerard Noodt says of Jurisprudence, "Semper existimavi artem nostram non uno tempore de cœlo delapsam esse imbris more; sed incrementa sua ab experimento utilitatis paulatim accepisse: sed nec ipsam per tot secula parem atque eamdem fuisse; verum ab hominum paupertate, severitate, opibus, mollitie, feritate, disciplina, religione, pace denique et bello, sæpe aliam atque aliam apparuisse." The fact of the journey of the Decemviri into Greece, and especially to Athens, in the age of Pericles, in order to obtain materials for the formation of the Twelve Tables, has been the subject of much sceptical inquiry: if they, or any of them, really performed it, we must regret that one of the ten did not keep a full journal of all that he saw and heard, and that the work has not come down to us; it would have been a book of deep interest, and full of instruction, and worth many dozens of tables, whether of marble, brass, or ivory, and codes of law. It has been disputed as to the contents of the Twelve Tables: it has been held, that the laws were rude, cruel, and barbarous; and likewise, that they were a model of absolute and finished elegance. The cruelty of the Decemviral laws rests on the authority of Quintilian, Cæcilius, and Tertullian, and especially of Aulus Gellius, who tells us, that if a debtor could not otherwise satisfy his creditors, they might cut him in pieces, and divide him amongst them, paying always a due attention to fat and lean, to meat and bone, to prime joints and coarser portions, fit only for soups and gravies. Bynkershoek and Dr. Taylor [*Commentarius ad legem Xviralem de inope Debitore in partes dissecando*], have explained the obscure law, and proved that the insolvent might be sold as a slave, and that the dissection, or division, was not of his body, but of the sum for which it had been disposed of. That this law was a law of mercy, and favourable to the debtor, for it interposed some delays, and gave him a longer day of payment than he had previously been entitled to. It was, no doubt, less cruel for the honest debtor to be the perpetual servant, or slave, of some farmer, and to be employed in husbandry, than to be immured

for the rest of his life within the walls of a prison, and to subsist upon four-pence a-day, which, until very lately, was the law of a certain self-sufficient nation. Some positions are less tenable than others: one of the least defensible is the notion, that, because Cicero calls the Twelve Tables, or rather compares them to, "carmen necessarium," they were in verse, and consequently, that the S. P. Q. R. used to sing them, as we are wont to sing, "A man having a settlement," &c., Living the husband, but him dead, It doth revive again. It doth revive again:" and they strive hard to keep themselves in countenance by the etymology of νομος, a law, which, they say, is derived from νεμω, I sing. We cannot find, amongst all that has been written on the subject, any sober conjectures, that would guide us in forming an idea as to the length of the Twelve Tables; of the number of folios which they contained.

The rights of Roman citizens have been subjected to much discussion: Ezechiel Spanheim, in his "Orbis Romanus," treats largely of this topic, and discourses very learnedly of the right of citizenship of the apostle of the Gentiles, which has always been a vexed question, and of the mode in which that valuable right could have been acquired. Much research has been expended, and much has been written, "de Civitate Romanâ," by the Dutch and Germans, and other nations; but it is not always easy to find our way through the Black Forest of quotations and arguments, in which the Dutch and Germans delight to wander to and fro: they have commonly more learning and industry than perspicuity, and more words than all put together: an Italian is generally sufficiently wordy, but it is always possible to find out what he means. The nature and extent of the Imperial power is a great and important question: whether the maxim "Quod principi placuit legis habet vigorem" [D. C. 1, tit. 4] was sound law; and if it ought to be taken in its fullest, and most execrable extent? and whether the empire was simply and absolutely a despotism; or whether the imperial office might be compared to the fasces, and was composed of all the high offices of the republic tied up in one bundle, and placed in the hands, and on the shoulders, of one man? Gravina seems to have thought, that the honour of a Roman by domicile (Gibbon calls him the Roman Gravina, "the classical latinity of the Roman Gravina," but he was a Calabrian by birth) required, that he should strain every nerve to limit to the utmost the power of the ruler of the world. Under that impression, he has composed his masterly treatise, entitled, "Liber singularis de Romano Imperio," and he contends for the power of the Senate under the emp[illegible] that he [illegible]uld content even Marcus Tulli[illegible] [illegible]doxy,

as well as by his elegance. Cornelius von Bynkershoek has treated amply of this great matter, and so many other authors of celebrity, that it would occupy a large space to give even a dry summary of what they have performed. In our own language, Dr. Bever, in his "History of the Legal Polity of the Roman State," has handled the subject; and, notwithstanding a certain woodenness, and much childishness and bigotry, the book is not entirely uninstructive; chiefly, perhaps, because it is rich in excellent quotations from Appian, Dion Cassius, Dionysius of Halicarnassus, Plutarch, and others; valuable plunder, which compensates for the poverty and sterility natural to the learned Doctor.

It has always been a question, whether, in the interpretation of laws, the letter of the law, or the spirit, ought to have the greater influence: this question, of course, arose in the Roman law, and was agitated with great acrimony between the Proculians and Sabinians. The learned Mascou, in his "Exercitatio inauguralis de sectis Sabinianorum and Proculianorum in J. C.," a sensible, but somewhat dry work, has collected whatever is known of these two sects, of which the founders, Antistius Labeo, and Atteius Capito, differed, not only in their mode of interpreting laws, but in their philosophical doctrines and political opinions; Labeo being a republican, and of such extreme sternness, that he could never be induced to treat the emperor with common civility, but in law he was greedy of novelties, and sought the spirit of the law in all the new devices that genius and various learning could supply: Capito, his rival, was a courtier, but a strict adherent to the opinions of the older lawyers, and clung fast to the letter of the law, from which he would not step aside for a moment on any consideration. These were succeeded in progress of time by other sects, of whose peculiar tenets and disputes it would be long to treat even briefly.

We have an interesting anecdote of Capito, which is inserted in the language of Gravina, as a hint to neologists: "Ac non modo in rebus gravibus, verum etiam in levioribus quibusque gratiam principis aucupabatur. Veluti cum Tiberius vellet verbum ab edicto suo expungere, aut ad Grammaticorum judicium referre, quod sibi parum Latinum videretur; Atteius minimè opus esse respondit; novo enim verbo usuros cives, postquam principi excidisset. Quâ responsione stomachatus Pomponius Grammaticus, ad Cæsarem conversus: imò, inquit, hominibus quidem civitatem dare, Cæsar, potes; verbis non potes."

Gerard Noodt, a fine, stout, healthy, jolly, full-fed, full-grown,

full-blown, Dutch Jurisconsult, and a Rector Magnificus ("Eleganti fuit specie, staturâ eminenti, firmissimâ corporis constitutione: ut per totam vitam, si paucos ex postremis annis demas, valetudine usus fuerit optimâ, viribus animi pari. Felix index faciei, frons tranquilla et serena, vultus comis, candidus, benignus!" — Barbeyrac *in Vitâ.*), Gerard could not bear, for the credit of his favourite science, to suffer mankind to believe that it ever had been lawful for fathers to expose their children, or to put them to death, he therefore resolutely combats that common opinion. He is compelled, however, to own, that the manners of the people for a long time permitted such things to be done. He is not able to acquit the law of profound drowsiness, of taking a long nap for several centuries; but it should seem that that notion was less noxious to his jolly condition and festivity of temperament, than a direct sanction. He found an opponent in his friend, the illustrious Bynkershoek, who is a more powerful writer than Noodt: as is usual in disputes, the disputants do not handle exactly the same question, because it would tend too manifestly to put an end to the dispute, in which both parties delight, if they were to discuss the opposite sides of precisely the same matter. Citations also are of course very rarely to the point, for if they were, they would hold out too great an encouragement to idle persons, who are addicted to the inconvenient practice of looking at the passage referred to. There is a curious passage in Seneca, well worthy of the attention of the philosopher, which shews that he could not conceive it to be possible to deny to fathers the liberty of exposing their children, and that he believed men were only to be tempted to abstain from the exercise of that right, and occasionally to take the trouble of begetting children and bringing them up, by being indulged with a large allowance of paternal power; and that his mind was as incapable of imagining how that liberty could be withheld, as in the present times men are of believing, that it could possibly be conceded. "Quædam privilegia parentibus data sunt. Quo modo horum extra ordinem habita ratio est, sic aliorum quoque beneficiorum haberi debet. Parentum conditionem sacravimus, quia expediebat liberos tolli. Sollicitandi ad hunc laborem erant, incertam adituri fortunam. Non poterat illis dici, quod beneficia dantibus dicitur. Cui des, elige ipse tecum. Si deceptus es, quære dignum, adjuva. In liberis tollendis nihil judicio tollentium licet: tota res voti est. Itaque ut æquiore animo adirent aleam, danda illis aliqua potestas fuit" [*De Beneficiis*, lib. 3, cap. 11]. If the Roman father, as some maintain, might pr[illegible] death, even during manhood, because he did [illegible] of the

fellow, or because his appetite was too good, or for any other less cogent reason, he might, of course, do as much for the new-born babe, and especially he might neglect to raise it from the ground and to supply it with food; he might, and it was a much smaller exercise of paternal power than knocking a well-grown youth of six feet three on the head, leave the care of his baby's maintenance to the Genius of the place, where he had exposed it, because, perhaps, its cry was pitched half a tone too low for his fastidious ear. The Patria Potestas was great at Rome, it is said, because a father could put his son to death, which he cannot do here: but here he can do much more, he can disinherit him entirely, and leave all his property away from his children, which he could not do there: perhaps the sum of the different heads of power may be more equal in all countries than is commonly supposed, although there may be a considerable difference in the particular items. Ingenious and argumentative persons, who like to take in hand unpopular doctrines, may amuse themselves by undertaking the nearly hopeless defences of slavery and the torture. Gravina furnishes a few hints on the former subject, as to the latter, Wiseman, in his "Law of Laws," p. 122, ventures to defend the use of the torture as prescribed by the Roman law, and these additional doubts have been thrown out by others on that subject, that before we peremptorily condemn it in all cases, we ought to have determined by experiment, whether in a country, where slavery is permitted, it be possible to receive the testimony of slaves without it; and to have satisfied ourselves as to this point also, supposing that the testimony of slaves cannot be received without it, whether the rejection of their evidence altogether, or the use of torture, be the greater evil? The Roman Law, as it regards the important subject of evidence, affords a wide field for observation; in a treatise on that head some erroneous notions might be exposed, some new views opened, and much interesting matter collected and brought to light. Amongst the intellectual phænomena of the present day, Mr. Bentham's great work, entitled "Rationale of Judicial Evidence specially applied to English Practice," deserves and will obtain especial notice. An abridgment of this book, by the skilful hand of M. Dumont, under the title of "Traité des Preuves Judiciaires," had attracted considerable attention, the entire work has lately been ably edited by Mr. John S. Mill, and published by Messrs. Hunt and Clarke. It is a vast and most luxuriant forest of disquisition and information: a production which has occupied a powerful, original, and active, mind, with little interruption, during a long and studious life, commands the perusal of the lawyer, whether

speculative, or practical, but more particularly of the statesman, who entertains the benevolent project of improving and reducing to a consistent system our law of Evidence, and requires the best efforts of the critic. The magnitude of the work and the importance of the matter have compelled us to postpone the consideration of these volumes until our next number, which, however, we the less regret, because many of our readers, in the mean time, may become better able to judge of our critical labours by improving their acquaintance with Mr. Bentham's doctrines. But to return to the subject of the present article.

The story of the finding of the Pandects at Amalphi, in the beginning of the twelfth century, has been the subject of long and vehement discussion: one party stands up for the truth of the tale, relying on the long tradition and the mass of historical evidence, and venerates the legend of the holy buckler; for Pothier speaks of the Pandects as "ancile quoddam Jurisprudentiæ:" the other party holds that it is an improbable narrative, and will see in the history nothing but contradictions and inconsistencies. It ought not, however, to be forgotten, in answer to those who maintain that the story of the invention of the Pandects is improbable, because one MS. only was found; that of several works, both on law and on other subjects, a single copy alone has been preserved. The opponents of the legend of the finding of the Pandects exult in the circumstance, that they are said to have been found in the year 1130, yet they are quoted in the letters of Ivo, or Yves, Bishop of Chartres, who died in 1116.

The Institutions, and Novels, and the Codes, at least that of Theodosius, were always, more or less, known and studied: and, although the Pandects were most probably entirely unknown in Italy in the time of the bishop of Chartres, it is supposed that some copies of the whole, or of part of them, may have been handed about in France. Ivo continually cites the Canon law; he cites the Novels in epistles 167 and 242; and he cites the Institutions and the Theodosian Code; and, what is chiefly to the present purpose, he quotes the Pandects by name in a letter, which is very curious, and which will shew admirably the spirit of the author and of his age, the nature of the Canon law, and of the terrible jurisdiction which the clergy exercised over marriage, as well as the precise quotation, upon which so much stress has been laid.

"Ivo Dei gratia Carnotensis ecclesiæ minister, dilecto in Christo fratri et compresbytero, Gualoni, salutem in Domino."

"Sciscitata est a me dilectio tua, utrum pueri sex annorum vel infrà possint inter se sponsalium vel matrimonii contrahere

sacramenta: et celebratis sponsalibus, si alter obierit, utrum possit superstes cum sorore vel cum fratre defuncti inire matrimonium, cum quo prius inierat desponsationis vinculum." His quotation is in these words: "Unde etiam in libro Pandectarum, continetur, libro xxiii. titul. 1. 'In sponsalibus consensus eorum exigendus est, quorum in nuptiis desideratur. Et ideo sicut nuptiis, ita sponsalibus filiamfamilias consentire oportet'—et in consequentibus: 'Filiofamilias dissentiente sponsalia ejus nomine fieri non possunt.'——— unde in supradicto continetur libro: 'In sponsalibus contrahendis ætas contrahentium diffinita non est ut in matrimoniis.'" He then cites the fathers and the Canon law, and of course decides that the marriage cannot take place between the brother of the deceased and the other espoused child, being of matute years: he mainly relies on the authority of the archangel Gabriel, which is so indecent, ridiculous, and even blasphemous, that it seems incredible; it is, however, literally true, for he concludes thus, "Indè etiam Augustinus in libro de Nuptiis et Concupiscentiâ: 'Neque fallaciter ab Angelo dictum est ad Joseph: noli timere accipere Mariam conjugem tuam. Conjunx vocatur a primâ desponsationis fide, quam concubitu nec cognoverat, nec cognosciturus erat.' His igitur auctoritatibus manifestum est, &c."—*Ep.* 99.

Here is certainly a precise citation of the Pandects; yet it is by no means impossible, that it may have been made at second-hand from some compilation, epitome, abridgment, or citation, by an ancient author: the passage is sufficiently like the text to be a direct quotation, and sufficiently unlike to have been taken at second-hand; but the question is far too extensive to be handled here. Gravina says, very happily, that the Pandects were perhaps rather recognized than found: "Utque mea fert opinio, multi Juris Civilis libri, postquam incessit homines cupido recipiendi Romani Juris, agniti potius fuere, quam reperti." The text of an ancient author always affords a vast scope for critical disputes: the various readings and collations of different MSS. if there be several; if there be one only, the different modes of reading it; the errors, real or supposed, of transcribers; lacunæ and interpolations, give a place for conjectural emendation. Verbal critics have not been wanting to the body of the Roman law, especially to the Pandects, which books are surrounded with immense piles of the results of their stupendous labours: the author of the Anti-tribonian facetiously, but with some exaggeration, remarks, that the Pandects have been so completely changed by correctors of the text, such as Budæus, Alciati, and Haloander, that Justinian himself

would not know his own book: and, moreover, that no two editors are agreed as to what changes are correct. In further depreciation of the Roman law, the same learned writer enlarges upon the differences between the text of the Vulgate and of the Florentine editions of the Pandects. The former has been happily compared to the Vulgate Latin New Testament, and the latter to the Greek text, because no one can exactly tell in what manner, or from whence, the Vulgate originally came. In the midst of uncertainties, however, this is most certain, that it is worth while to acquire some knowledge of the Roman law, and a taste for critical disquisition, merely to enjoy that masterpiece of criticism, "Henrici Brencmanni Historia Pandectarum, seu Fatum Exemplaris Florentini." It has been disputed, not only gravely, but with great warmth, learning, and industry, as to the gender of the word Pandecta, or Pandectes, whether it be masculine, or feminine; whether the Receiver-general be a man or a woman: there are many great names in favour of the masculine gender, and as many, and as great, on the side of the feminine; some critics, as it were, to keep the game alive, have maintained that in the singular number the word is masculine, in the plural, feminine. Prudent men have been kindly recommended, for the sake of peace, to use the word so as to avoid raising the delicate question of sex; thus, "Pandectis Florentinis." In like manner it has also been disputed as to the gender of another legal word, but not by any means to the same extent, whether we ought to say hic, or hæc, paragraphus? The letter n in "vicensimus," for so the word is invariably written in the Florentine MS. of the Pandects, has provoked disputation; it has not yet been decided whether vicesimus has not the more right: and so with "tricensimus" and his fellows.

Having given some examples of the various nature of the disputes, in which the Roman law abounds, it will be expedient, in the next place, for the sake of persons who are not conversant with these subjects, to give a brief account of the Body of the Roman law, and to explain in a few words, of what parts it consists, and what is the peculiar character of each part. The Body of the Roman law is composed of four distinct parts: the Institutions of Justinian, the Pandects, his Code, and the Novels.

The Institutions are a short and elegant introduction to the Roman law: they were published by Justi[illegible] time before the Pandects, for the benefit of st[illegible] well adapted for instruction, as they a[illegible] able, although extremely brief. Th[illegible]

editions, and an ample supply of annotations, those of Vinnius are most approved. Dr. Harris has translated the Institutions into English, and has added short notes, chiefly to shew the principal points of difference between the laws of England and of Rome. There is nothing remarkable in Dr. Harris's book, save his strange familiarity with "the incomparable" Arnold Vinnius, or Vinnen, whom he always calls Vinny, a name too like Jemmy, or Jenny, not to provoke a smile: whether the learned doctor was induced to use this extraordinary liberty from a notion that such was the real name of the jurisconsult, or through a sentiment of ungovernable tenderness, he has not informed us. Justinian's elementary work is generally so plain as not to need elucidation; the great Cujas, after praising it as most perfect, and most elegant, wisely remarks—"Ex libris Juris Civilis libello Institutionum, neque comptior, neque facilior ullus est, quique interpretem desideret minus: ut planè illorum videatur esse ocium ignobile, qui eum libellum longissimis onerant commentariis quod positum est in unâ cognitione, in infinita dispertientes." The best illustration may be derived, when required, from the paraphrase of Theophilus, which Gravina terms, "most sober and very learned;" and that may be consulted, either in the Latin translation, which is commonly subjoined to the Institutions, or in the original Greek in the excellent edition of Gul. Otto Reitz *Θεοφιλς Αντικηνσώρος τα ευρισκομενα*, 4to, Hag. Com. 1751, where the student will find enough of notes to offend Cujas; and in the twenty appended excursus he may read every thing that ought, or ought not, to be said concerning the paraphrast himself.

The most beautiful part of the Roman law, which contains all its candour and elegance, is the Pandects, or Digests; "Mala piu bella parte, ch'era quella delle Pandette, ed ove racchiudesi il candore, e la pulitezza delle leggi, era a noi molto più nascosta e rara la notizia" [*Giannone*]. Although they are a compilation from the works of different writers, who lived in different times, yet the uniformity of grace is so complete in the style, that the critics say they appear to be the composition, not of several authors, but of one Cicero. It had ever been a favourite design of the Roman emperors to comprehend in one work all the legitimate disputations and decisions of the Roman law: "Jus Civile ad certum modum redigere atque ex immensâ diffusâque legum copiâ optima quæque et necessaria in paucissimos conferre libros." Julius Cæsar entertained it for some time, as Suetonius informs us, and it was, at last, executed by Justinian. He caused the Pandects to be compiled from the works of thirty-seven authors, be the same more or less; from two thou-

sand volumes, and, if we take a volume to mean the same as a book, there being fifty books of the Pandects, this part of the law was reduced from two thousand books to fifty, that is to say to one fortieth part of its original bulk. The law comprised in the Pandects is derived from four principal sources: 1st, from written laws, whether ancient or modern, except the imperial constitutions since Adrian, which are contained in the Code: 2ndly, from the actions at law, which were derived from the ancient written law; this is the practice, or mode, of putting the laws in execution; and the interpretation, or manner established by custom, of construing certain laws, which were ancient or obscure: 3rdly. The Edicts of prætors and other magistrates; that is, the rules of court, and the reported decisions of the judges: 4thly. The advice and opinions of jurisconsults; either the private opinions of single individuals, or the received opinions, "receptæ sententiæ," which had been settled at a consultation, "disputatione fori," of all, or many of the jurisconsults; which joint, or several, opinions gradually obtained the force of law. The method, the authority, and the follies of Justinian may well be blamed, but the ancient learning and jurisprudence, which are preserved in the Pandects, must ever be highly esteemed and admired. We censure the collection of Justinian, because some of his laws are contrary, but we do not know what was the contrariety before he published his compilation. Much valuable time has been consumed, and often uselessly, except so far as the mental exercise was beneficial, in attempts to reconcile the antinomies, the contrary and contradictory laws. The acute and learned Giannone suspects that Theodosius made his Code, and Justinian his Pandects and Code, as much with the view of strengthening their power, as for the public good, as Pope Gregory formed his collection of Decretals; and that the design of extinguishing the last sparks of liberty was a more powerful motive, than the desire of benefitting the state by uniform legislation. It is perhaps from such suspicions that subjects have always been averse to codes of laws. De Ferrière, in his "Histoire du Droit Romain," p. 380, states, that the individuals who were employed to reduce the French Customs into writing, not only did much mischief through their carelessness, but also through their dishonesty, and inserted various customs untruly, to serve themselves and their private friends. Ignorant and dishonest men have argued, hitherto but too successfully, against the use of a good thing, by arguments drawn from the abuse of it; that a code of laws, of which the compilers wanted integrity. or industry, was found to be mischievous, has con[illegible] urged as a

conclusive proof, that it would be an evil also, if composed by legislators richly endowed with these indispensable qualifications. Critics are much dissatisfied, and often with reason, on account of the defective method of the Pandects. Method was never very excellent, until the art of printing prevailed, if we except a few authors, who were men gifted by nature with a singular genius for lucid order, and the course of whose studies assisted their natural disposition. It must be obvious to every person who has written much, that it is exceedingly difficult to preserve a tolerable degree of method in his MSS. It is convenient to copy such a thing at such a time, although it may be very much out of its place. A prodigious familiarity with the subject is required to keep a whole plan at the same time, and for a long period in the head, which is necessary to the production of an orderly MS. One of the artificial means of effecting a tolerable arrangement, to write on loose sheets, and to arrange them before they are bound, was prevented by the scarcity of writing materials, and the different manner of using them; and when a person writes every thing with his own hand, even if there be no method in his collections, he is commonly able to find the passage which he seeks, from remembering extrinsic circumstances, as the time and place of writing it: these considerations ought to be taken in account, when we blame the defective method of the Pandects and the Code. The necessity of fair writing is another great impediment to the attainment of a perfect arrangement: when a work is written to be printed, it matters not how much the MS. be disfigured with insertions and erasures; but, if the writing is to be preserved, that it may be read afterwards with any comfort, a fair page is indispensable. We find abundant proofs that in the age of Justinian, barbarism had commenced: the head of the emperor on coins is adorned with a diadem, which, as well as his robes, is stuck over with pearls and stones, so that he resembles a barbarian, or a doll, rather than a Roman general. There is a vast profusion of fine titles in his body of laws, which are bestowed with a lavish hand, a sad departure from the severity of the ancient simplicity. The epigraph of the second preface, or epistle, prefixed to the Digests, is a good instance. "De Confirmatione Digestorum ad Senatum et omnes Populos. In nomine Domini et Dei nostri Jesu Christi, Imperator Cæsar, Flavius Justinianus, Alemanicus, Gothicus, Francicus, Germanicus, Anticus, Alanicus, Vandalicus, Africanus, pius, felix, inclytus, victor ac triumphator, semper Augustus, ad Senatum, et omnes populos." There is something of barbarism in the manner in which he forbids the citing of the other works of

lawyers, except those comprehended in his compilation; his prefaces are full of vain and empty boastings, and his dislike of commentaries would ill suit our annotating lawyers; "nullis Jurisperitis in posterum audentibus commentarios illi applicare, et verbositate suâ supradicti codicis compendium confundere, &c." This denunciation, although it may be wholesome, savours of a barbarous age, and the prohibition of books, in which there were any abbreviations or contractions, which is as it were to put the works and the art of short-hand writers into the index of prohibited books and under the ban of the empire, is an infringement of literary freedom. If we look at these ordinances we shall find, that as far as legal learning was concerned, they amounted to the institution of an inquisition, and thereby founded a most mischievous precedent, and did more harm than any harmony of laws could possibly atone for. If the prohibition of any book whatever, under any pretence whatever, be once conceded, it is only one step more, and a very short one, to the Dominicans, and to the dungeons and faggots of those reverend and party-coloured fathers. It is always highly improper to mix law with religion; law is law, and religion is religion: every pious and patriotic man is desirous to keep the two departments entirely separate, and on no account to mingle them, for the mixture, or rather confusion, is greatly to the detriment of both. We should be disgusted with the cant and bad taste of a young book-making lawyer, who should commence his digested or undigested Index to the Term Reports, like the Holy Alliance in their indigestible compositions, in the name of the most holy and undivided Trinity, and we should with reason be shocked if the illustrious artist were to conclude his book of reference thus, "Quod cælesti fulgore, et Summæ Trinitatis favore confectum est." We are offended, in like manner, at Justinian's ill-timed display of his piety, or hypocrisy; the phrase "nostro nomine præfulgente," is to be condemned of self-conceit only; but expressions such as "summâ nostri numinis liberalitate," and "nostro divino fuerant ore profusa," are not to be excused in a Christian emperor; how could he reconcile the notion of his own divinity with that faith of which he makes such an ostentatious display? The Pandects were translated into Greek by Thalelæus: the eye of the law, of which we hear so much, and in which matters seem so very different from their appearance in other eyes, was a title first invented in honour of this translator, who was called νομικῆς οφθαλμος.

The next and third part of the body of the Roman law is the Code of Justinian. The word Codex, Code, was used only to denote a collection of imperial ordinances, and was thus restricted; it

was not used in the modern and larger sense, in which we say a Code of laws, meaning the whole body of the laws of a country: from the difference in the ancient and modern acceptation of the word mistakes have arisen. The Code of Justinian contains the laws of fifty-four emperors, from Adrian down to himself: it is divided into twelve books. It was adopted in the east, but it was not able to supplant the Theodosian Code in the west. Justinian had previously compiled a former Code; five years intervened between that and his code of second prælection, which latter only has come down to us; it repealed and annulled the former one. The Codes of Theodosius and Justinian are chiefly valuable for the immense mass which they contain, of the history and antiquities of the declining empire.

The Novels form the last and least estimable portion of the Roman law; they are imperial constitutions, which were made after the publication of the Code of Justinian; they are principally in Greek, and are arranged without any other order, than the date of publication. There is an ancient Latin translation of the Greek Novellæ, extremely literal and extremely inelegant. This Vulgate is called the Authentic, "Authenticum," and has carried literal translation so far as to be barbarous. The admirable historian of the kingdom of Naples, who was a profound lawyer, and an excellent critic, briefly and distinctly gives it as his opinion, that of the Novels of Justinian, such as were written in Latin are as much inferior in beauty and elegance to the Constitutions after Constantine, as these are to the Constitutions from Adrian to Constantine. More than a century before Justinian, the emperor Theodosius II had published a code containing the laws of the Christian emperors from Constantine to his own time; the greatest part of the bulky volumes still remains: from the great number of the imperial constitutions, it should seem that the emperors had a passion for making laws; they are on subjects of various importance, and even descend to legislate concerning the bathing of the soldiers in the river; many are in a very rhetorical, flowery, offensive, and almost Irish style. There were one hundred and twenty-six years from Constantine to Theodosius II, and sixteen emperors; we ought not to wonder, therefore, at the magnitude of the Theodosian Code. James Gotthofred, who spent thirty years in writing a commentary on this code, and was well qualified in other respects to form a correct judgment of it, says, "Etsi conditores hujus codicis egregiam operam navarint in capitibus et sententiis excerpendis ex prolixioribus constitutionibus, quas sub suis quasque titulis posuêre, detractis quæ ad rem minus facere videbantur, veluti

præfationibus, aliisque quæ non legis modo concepta erant: servatis contra quæ plenam et absolutam fermè sententiam efficerent, paucis excerptis, quæ suprà notavimus, attamen fatendum, discerptas ita leges multum lucis amisisse, quæ si integræ extarent, singulis sententiis, plenior quoque certiorque sensus constaret: uti fermè nisi totâ lege perspectâ de ui aliquâ ejus particulâ propositâ judicare vel respondere arduum, imò quoque inutile est." Thus complains Gotthofred, notwithstanding the partiality of a commentator, of the want of conjunction, or connection of the laws in this code: he laments likewise, that, on account of the confusion of the names of the consuls and emperors, the chronology of the code is unhappily intricate and difficult.

The style of the Constitutions is sometimes good, sometimes a little strange, and sometimes so very strange, that it would be, perhaps, possible to name one learned Judge, who has alone been able to equal it: as in a constitution of Constantine; "Cessent jam nunc rapaces officialium manus, cessent inquam: nam si moniti non cessaverint, gladiis præcidentur: non sit venale Judicis velum; non ingressus redempti; non infame licitationibus secretarium: non visio ipsa præsidis cum precio: æquè aures judicantis pauperrimis ac divitibus reserentur: absit ab inducendo, ejus qui Officii princeps dicitur, depredatio," &c. [1 *Cod. Theod.* tit. vii. 1.]. Persons who have visited the ancient Basilicas will understand and feel the weight of the words, "Judicis velum." Schomberg acknowledges that the best, and indeed all the good constitutions are of the emperors before Constantine; they are only to be found in the code of Justinian, not in that of Theodosius: and the admirable Giannone says, "Fu veramente cosa di somma maraviglia che fra quelli Romani Imperadori, che ressero l'imperio sino a Costantino, essendovi stati alcuni iniqui, crudeli, e piuttosto mostri sotto spezie umana, come Nerone, Domiziano, Commodo, Eliogabalo, Caracalla, ed altri; le loro costituzioni nondimeno ugualmente splendessero di saviezza, di giustizia, e di gravità: tutte saggi, tutte prudenti, eleganti, brevi, pesanti, e tutto diverse da quelle prolisse, che da Costantino, e dagli altri suoi successori furono dapoi promulgate, convenienti piuttosto ad oratori che a principi [l. i. c. 8]. For this reason the Code of Justinian is more valuable than that of Theodosius, because the former comprehends the constitutions of the emperors before Constantine, the latter begins with him.

The forms of proceeding are a very important part of all systems of law, because they are the mode of carrying the law into effect; but in the Roman law the formulæ are of especial dignity and

importance. The formulæ for contracts were useful, as they were partly in the nature of notarial acts: it was necessary that a notary, some public officer, or at least some skilful person, should be present to prescribe and administer the exact form of words; these solemnities may have been sometimes absurd, but they were no doubt useful in cutting off suits by their precision, and in supplying before hand the best and most authentic evidence. The forms have been called by the enemies of the civil law, charms and conjurations; and it certainly seems as though there was something of superstition, in a rigid adherence to particular words; as if they were supposed to possess something of the magical power of invocations. We perceive the same feeling in the present Romans, in the strict adherence of the Romish church to the old forms of liturgy, and in holding it improper to pray in any but the old formulæ, which have been consecrated by immemorial custom. The notion of extemporaneous prayer, in which the Presbyterians so largely indulge, would seem no less monstrous to a Roman prelate, than an extemporaneous contract, or agreement, to an ancient Roman Jurisconsult; neither of them could be brought to believe, that there was any force or efficacy therein; that they were not void from the beginning, and absolute nullities. These highly artificial modes had, no doubt, some inconveniences, but they were not without their use, as artifices to give time to the contracting parties to think and to be advised: it is extremely difficult, if not impossible, to make the many reasonable; the humanity of legislators, therefore, has often contrived to invent substitutes for reason. The custom of writing all instruments in Latin, after it was a dead language, which prevailed so long in Europe, had many of the advantages and inconveniences of the Roman formulæ. There were men, however, in the olden time, who were averse to forms: we read in the Pandects this commencement of a will; "Lucius Titius hoc meum testamentum scripsi sine ullo jurisperito, rationem animi mei potius sequutus, quam nimiam et miseram diligentiam: et si minus aliquid legitimè, minusve peritè fecero, pro jure legitimo haberi debit hominis sani voluntas." The Testator was no friend to formulæ; but perhaps he would have been less dissatisfied with them, if he had been a prætor, and had consumed his time, and employed an excessive and miserable diligence in endeavouring to pick out the reason of men's minds, and the will of sane men, from their unintelligible and insane writings. The unfortunate president Brisson has formed a most valuable collection of the solemn and usual words of the Roman people, having gathered them with incredible industry from the most remote, as well as the

most obvious sources. It may be thought that he has carried it too far, and made many expressions, even in domestic life, to be practical forms, which should rather shine in a book of familiar and easy dialogues, such as, "Salve, quid agis? Date aquam manibus, apponite mensam; auferte mensam. Ferte aquam pedibus." Nor is it easy to place amongst the "verba solennia" of the Roman people, such terms as, "Meum mel, meum cor, mea colustra, meus molliculus caseus!" But these form a very small part of the inestimable work of the learned and laborious President, of whom it has been most justly observed, "ita ut sermonis elegantiam pluribus, huic verò uni sacram atque solennem Latinæ linguæ supellectilem debeamus." A large majority of lawyers, and of men of all professions, through the niggardliness of our step-mother, Nature, must inevitably consist of dull fellows, who are not susceptible of comedy, and have no sense of the ridiculous (a sensitiveness on this head being a sure test of genius), they are very apt, therefore, in carrying laws into execution to make them ridiculous. A legislator in handing over his law, whatever it be, to judges, to be put in force, must make up his mind to see it very soon caricatured. In some farce, a Yorkshire clown is taken into a gentleman's service, and, being ordered to bring his mistress a piece of bread, he brings it in his hand; whereupon, a law is made, and he is ordered, in future, to bring whatever is asked for on a waiter: soon afterwards, the lady calls for her clogs, and he accordingly presents them to her on a silver waiter; the clod is forthwith, with the unanimous consent and approbation of all present, kicked down stairs, out of the house, and across the street. In the history of jurisprudence, in all countries, we shall find, that the judges have usually wanted that power of obvious discrimination which was fairly required in the Yorkshire servant; and whenever they do not, as it were, annul and repeal a new law, by some strange and strained construction, they very soon make it so ridiculous, and perhaps, also, so inconvenient and oppressive, that men wish it had never been enacted. In order to understand the rigid adherence of the Romans to their formulæ, let us borrow an analogy from our cries. Let us suppose that muscles could be sold—could only come 'sub hastâ' lawfully, as "Lilly-white muscles!" That the purchaser of a mutton-pie, in market overt, might not repose on the security of his title without this solemn announcement of the sale, "Mutton-pies! Hot! hot! hot!" two hots only being clearly vicious. That the transfer of the possession of hot cross-buns, for a valuable consideration, was ineffectual, unless their venality had been proclaimed in the

usual solemn and legal terms, "Hot cross-buns! hot cross-buns! one a-penny, two a-penny, hot cross-buns!" That if a word, or a syllable, had been omitted, the transaction was a mere nullity; the vendor was compelled to restore the coppers, and the purchaser to make a specific restitution of the buns, the prætor, in aid of his authority, calling in ipecacuanha, tartar emetic, and camomile-tea. It was easy, by neglecting to discriminate, to carry any general rule to an extravagant length; but many reasons occur to justify an adherence to forms in profane matters, and perhaps, also, as to sacred: the ancients were of opinion, that, as the immortal gods were to be treated with due respect in all actions, so also in the words that were to be addressed to them; that prayers were not to be made without consideration, and the advice of the most wise and learned men: they would have considered it an intolerable thing, a most impious liberty, and an indecent freedom, that every greasy, leaden-faced fellow, should utter, as an address to heaven, whatever barbarous and unconnected words might chance to come into his head, or to issue from his impure mouth. Nor will this notion seem to be very unreasonable, if we consider that we esteem it better and more safe to incur the risk of error by too great respect, rather than through too great neglect, of sacred things; it being usual, also, to have addresses and petitions, concerning matters of infinitely less importance, that are to be presented to mere earthly sovereigns, prepared before-hand with the utmost care and the most scrupulous exactness. Lawyers delight in quaint modes of proceeding, as, for instance, in reckoning time; the emperors dated their constitutions by Consuls, when these magistrates had ceased to be any thing but an empty name. We absurdly reckon our years in legal proceedings, not by the vulgar æra, but by the year of the King's reign—50 George IV: the Pope, in his bulls, dates by the year of his pontificate, and the smallest little Bishop by the year of his consecration or translation; his meek and lowly spirit being puffed up so much with the notion of his own importance, that he imagines his being the occupier of some paltry see is of greater concernment to the human race, than even that event from which the whole of Christendom is used to date. The Roman law and formulæ receive much light from the Grecian: the great addition which has been made to the Greek inscriptions, since it has been the fashion to travel in Greece, induces a hope, that much important information may be derived from these sources. The Byzantine Greeks have done us infinite mischief by their epitomes, synopses, selections, manuals, and abridgments; the original work was

the law, is said to have learned it at Constantinople. The profession and practice of the law, like all the other sciences and arts of life, fell into a rude and barbarous condition, when men retraced their steps to a savage life; but there is no reason to believe that the Roman law was ever entirely lost or suspended; on the contrary, it is certain that it always subsisted, but it was cultivated for several centuries unskilfully and unsuccessfully. It revived with extraordinary rapidity at the beginning of the twelfth century; and, when learned men, from whatever cause, resumed the study of the Pandects, they applied themselves to the elucidation of the body of the law with extraordinary zeal and emulation, and in great numbers. The sums, and more especially the copious glosses, of the earlier professors, exhibit a great acuteness and solidity of understanding; a profound knowledge of the law, and a prodigious and unwearied diligence: they give us an exalted opinion of the authors of those elaborate works, and we are more disposed to wonder that, awakening suddenly from the long sleep of barbarism, they exhibited such great attainments, than that they wanted that refinement, elegance, and variety of learning, which the superior advantages of later times could alone supply. Accursius had investigated and explained in his glosses many of the more abstruse laws with stupendous acuteness; and had reconciled, by a laborious and ingenious collation of the text, many laws that were apparently inconsistent and contradictory. On the revival of letters and of the Greek literature, Alciati restored the study of Roman jurisprudence to its native elegance, and it became a delightful, and was no longer a painful, although profitable, pursuit. His epitaph at Pavia says, that he died in 1550, and describes him as the man "qui omnium doctrinarum orbem absolvit, et primus legum studia antiquo restituit decori." An augur would find a remarkable omen in the nativity of this celebrated lawyer; for he was born, it is related, like Cicero, "nullo matris parturientis dolore;" and his method of institution was as facile as his birth. If the old, painful, and uninviting course of education had been eminently successful, by reason of the paramount utility of the study, notwithstanding the dry, formal, and scholastic, method, in which it was conveyed, we cannot wonder that the new mode of teaching the law, which brought to bear all the history and antiquities, the philosophy, the eloquence, and frequently even the poetry, not only of Rome but of Greece, spread like a fascination, a conflagration, an infectious disease, amongst the students. The extraordinary and well-merited success of the professor, and the intrinsic excellence of the new method, gave great offence

to the conservators of barbarous usages; they could not bear that others should learn with ease and pleasure, what they had learned with difficulty and pain: to have made any branch of education agreeable was an unpardonable and inexpiable offence; and the heroes of the old school, aided by the church, raised such a violent persecution against Alciati, that he was driven out of Italy; but he continued to teach in France under the auspices of Francis I. His method soon prevailed every where, even at home; and it is there that inventors and improvers invariably find the least encouragement, and experience the most determined opposition. Since the foundation of the new school, the Roman law has been liberally illustrated from, and indeed almost entirely inculcated by means of, the most perfect specimens of composition that the world ever beheld. The angler who desires to have good sport in the ancient jurisprudence must not fail now to bait his hook with some very choice morsel of classical learning. We read of the great Cujas, "Veterem eruditionem tanti faciebat, ut eâ se diceret in jure civili tanquam hamo piscari." The accumulation of knowledge, a fund of riches which, never suffering loss, is continually increasing, will also account in part for the difference between the glosses of Accursius, who wrote in the thirteenth century, and the commentaries of Alciati, composed in the time of Francis I. It is comfortable for the practitioner to reflect, that if the study of the law in the time of the old composers of glosses was painful, the practice was lucrative. Francis Hotman complains that the power of making a will was the most fruitful of all the various sources of litigation—"tellement qu'Alexandre escrit en sa preface sur le titre *De vulg. et pupill. sub.* que Raph. Cumanus avoit oiiy de sa propre bouche de Balde qu'il avoit gaigné sur la matière des substitutions plus de quinze mil ducats en consultations; et adjouste ces paroles; *Ideo advertatis.*" The number of authors who have written on the civil law, and not merely of authors, but of men of extraordinary genius, learning, or eloquence, is truly astonishing; it would have greatly exceeded the limits of the present article to have given a very brief enumeration of the names, the excellences, and the works of the principal writers. The legal biography has been well and agreeably written by Guido Panzirolo and many other authors. It is difficult to speak in adequate terms of the learning of James Gotthofred, and yet vast learning is so common with jurisconsults, that it is hardly a distinction. The learning of Cujas and Heineccius is extraordinary, inconceivable, and, as it were, (speaking with reference to jurisprudence and the limited, al-

though very extensive, remains of the ancient law which we possess), perfect. The operation of the vast learning of an author, in its action outwards upon the minds of his readers, men of ordinary information, is frequently rather to darken and obscure than to enlighten; yet the transcendent learning of Cujas and Heineccius is always perfectly diaphanous, and illustrious with the most luminous perspicuity. The pure Latinity of the Spaniard, Antonio Augustini, is as remarkable as it is delightful; but, amongst the numerous writers of elegance, Gravina shines forth as an example of absolute perfection in didactic composition; his style is elaborated into a model of the most perfect beauty; the man who has not read his works is surely not to be accounted happy. Whatever may be their opinions as to the other publications of Justinian, all learned men agree in commending the elegance of his Institutions, nor is it possible to be insensible to the classical correctness of Gravina; the feelings of his editor, Godfrey Mascou, if we may judge from his own productions, are not very acute, as to the beauties of composition. Yet the honest German cries out aloud that that man must be made of lead, or more stupid than a millstone—"næ ille plumbeus sit, aut stupidior lapide molari"—who is insensible to his extraordinary merits. Gravina was so great a man that, like our Hampden and the major part of estimable persons, he has been accused by critics of Infidelity: when no other fault can be laid to the charge of a distinguished man, it is necessary for his enemies, the foes of the human race, to adopt an accusation that is easily made and greedily believed, and that can never be disproved. Gravina is suspected of being an infidel, or "semipaganus," because he prefers the name of Janus in the title of his works—"Jani Vincentii Graviniæ Jurisconsulti Opera"—to the barbarous word Johannes, and because he sometimes speaks with charity of the Pagans, and of their religion with respect. The grounds of accusation are sufficiently absurd, yet they are more respectable than some that have been brought forward as proofs against men of eminence. The most celebrated professor of law, Cujas, was accused of an indifference to religion, because he never alluded to the subject in his lectures. It is not easy to conceive how the most ingenious lecturer could possibly connect a confession of faith with a discourse on the law of succession or of contracts: but envy is credulous—some crafty enemy undertook the office of spy, and asked his opinion on a controverted point; his remarkable answer, which at once silenced the cowardly ruffian, is well known, but ought never to be forgotten—"quid hoc ad edictum Prætoris?" The learning and the purity of

style of the writers on Roman law are not their only, nor their most valuable, qualities; their works generally breathe a liberal philosophical spirit. He is not a man who is unable to appreciate Bynkershoek's elegant and philosophical treatise, "De Cultu Religionis Peregrinæ apud Veteres Romanos;" wherein he clearly traces the pestilent stream of intolerance from its source in Egypt into Rome. The Jews caught the contagion—the worst plague of Egypt—of the Egyptians, and communicated it on the one hand to the Romans in the western world; on the other, to the east, through the Mahometans. The History of Naples, by the admirable Giannone, is valuable for the stores of historical and legal information which it contains, and precious for the tone of liberality and moderation in which it is composed; so far from falling into the vulgar error that the laws of the Jews are adapted for all nations and all times, and not merely for the peculiar circumstances and necessities of that nation at the time they were made, he honestly and rationally says, "E qual altra gente possiamo noi qui in mezzo recare, la quale colla Romana in cio contendere? Non certamente l'Ebrea, la cui legal disciplina essendo molto semplice e volgare, non fu mai avuta in molta riputazione" [l. 1. c. 7.] Gravina, in his dedication to Pope Clement XI, recommends the Roman jurisprudence, as being derived from the Jewish; but he does not repeat his recommendation elsewhere, for he seems to think that it was a reason which was likely to weigh with a pope only; to borrow Martin Luther's favourite expression, with "a little ass of a pope." Constantine made great changes in the Roman law; hence he was called "novator," the innovator; many of his changes are mischievous; he enacted divers old-maidish laws in favour of what was esteemed, by fanatics, purity, and several to enrich the church. Writers on the one side extol Constantine for his alterations in the laws, whilst others condemn him; it is only by a patient examination of the laws themselves, that we can form a just judgment as to his legislative merits. To get a real knowledge of the history of the Christian Church, it is absolutely necessary to be well acquainted with the Roman law, and especially with the imperial constitutions contained in the codes of Theodosius and Justinian; without which, it is perfectly impossible to obtain a correct view of ecclesiastical matters. The constitutions of the emperors after Constantine, are easily distinguishable by their diffuse and barbarous style. We hear much of the prevalence of the civil law in Scotland; Arthur Duck says, that it obtains there "in casibus omissis;" and it should seem, that such cases are pretty numerous, for George Buchanan gives an

unpleasant picture of the state of the law in that kingdom. "In Scotia, nullas penè esse leges præter Conventuum Decreta, eaque non in perpetuum, sed in tempus facta, Judicesque, quantum in se est, lationem legum impedire, civium bona Judicum arbitrio esse concessa, eorumque esse perpetuam potestatem et imperium planè tyrannicum, quippe quorum arbitria sola pro legibus sint." [l. 14. *Rer. Scotic.*] Some assert that this account is exaggerated, even with respect to the time of which the historian speaks; whilst others refer us to the decisions of the Scotch courts in the present times, and maintain that not only do vestiges of the old evil remain, but that it is a tolerably faithful description of the condition of the laws at the present day. As to the Scotch law of real property, it has little in common with the simplicity of the Roman law; for it is, if possible, still more clogged with the feudal trash, than even the law of England. It is an important question, but hitherto it has never been answered, or even asked, whether, if a code of laws was composed for England, the benefits thereof ought to be extended to Scotland and Ireland. The Scotch are an argumentative people, yet they have not furnished their share of great lawyers: they argue chiefly about metaphysical matters, for which purpose it is only necessary to watch the mental phenomena that pass within, or even with a strict economy of words, and an immoveable pertinacity, to talk confidently about the mind after some artificial system, without taking the trouble of actual observation; but in law, much depends on extrinsic matters, on information from without, on the knowledge of books, and of mankind; learning and erudition are eminently necessary. The Scotch law books, whenever they profess to treat of the Roman law, manifest only a superficial acquaintance with it, which is evident on the slightest inspection. It has been somewhat unhandsomely said, that of the civil law they have been most successful in retaining its mutability, and the defects and delays of judicial proceedings, together with some ill-pronounced technical terms. The modes of publication, it has also been remarked, are very characteristic in both countries: in Rome, the laws and legal notices are published on the doors of the churches; in Scotland, at the market-cross: the prime necessary of life to a Roman, and which he can on no account intermit, being to say his prayers; of a North Briton, to buy and sell.

"Cicero Trebatio, S. D.

"Illuseras heri inter scyphos; quod dixeram, controversiam esse, posset ne heres, quod furtum antea factum esset, furti rectè agere. Itaque etsi domum bene potus serôque redieram,

tamen id caput, ubi hæc controversia est, notavi, et descriptum tibi misi; ut scires, id, quod tu neminem sensisse dicebas, Sex. Ælium, M. Manilium, M. Brutum sensisse. Ego tamen Scævolæ et Testæ assentior. Vale." [*ad Fam.* l. 7. Ep. 22.] It is plain, from this very curious letter, although it is not commonly known or remarked upon, that there were in Cicero's time collections of law, or digests of decided cases, and the opinions of eminent men, like the Pandects, in common use, which could be readily consulted, and with advantage, even when a lawyer returned home late from supping with his friends, and had made himself pretty comfortable.

Of the celebrated Institutions of Gaius, a small portion only remained; but within a few years, a copy of the work was found in Italy nearly entire, and has been printed with singular care. As the subject is so large, it will be desirable to consider in a future article, the importance of that work, and also of whatever the more modern Germans have said and done to advance the knowledge of the Roman law. The Germans are a most learned and laborious nation, but their works must be used with the utmost caution; for they delight in paradoxes, and love them, if they be very incredible, better than their own souls; better than brandy and sausages, than beer, wine and tobacco; better than any thing, except compilation and a little quiet plagiarism. This prudent and sage advice, therefore, has been given by experts, to believe any thing whatever, even to believe that the paradox itself is true, rather than to believe that it is new, and was invented by the learned and excellent German who puts it forth to the world as his own.

The prolegomena and notes of James Gotthofred to the Theodosian Code are, like too many of the writings of lawyers, overrun with citations; sometimes even when they are not stuffed so full of references, that are nothing to the purpose, as to be quite unreadable, the points which they would illustrate are unimportant. The Theodosian Code of Gotthofred is a striking instance of overwhelming annotation; and the profundity of his learning is not unfrequently injurious to perspicuity; he is not entitled to rank with the few commentators whose notes are so brief, so apposite, so necessary, and so happy, that they will overcome the most powerful antipathy to commentaries. Persons who are addicted to too great citation, and who have sinned against society in that respect, ought to be compelled to get by heart the four chapters, 39-42, of the 3rd book of Rabelais, and to repeat them seven times every day, together with the seven penitential psalms, as a penance, salutary to themselves, and affording a warning to others.

A fierce jealousy formerly raged, not only between the professors of the Roman and the Municipal law, but the former law excited also the envy of the Canonists: St. Bernard complains to pope Eugenius, "Et quidem quotidie perstrepunt in palatio leges, sed Justiniani, non Domini; justène istud? tu videris?" and St. Jerome wrote angrily "Aliæ sunt leges Cæsarum, aliæ Christi; aliud Papinianus, aliud Paulus noster præcepit," &c.

There was a spirit of rivalry between the popes and the emperors as to the law; the former encouraged the Canon, the latter the Roman Law; the civilians have briefly comprehended the qualifications of their rivals in a contemptuous proverb; "Magnus Canonista, magnus Asinista!" The emperors had made rescripts about important matters, whether public or private; the popes, in imitation, and desiring to ape them, wrote decretal epistles, or pretended sometimes to have written them, if a man married his cousin, or his god-daughter, or kissed his god-mother; about espousals, and so forth; all which was extremely absurd, and extremely lucrative; of such is the body of the canon law. With one of the causes of the neglect of the civil law in England, we can hardly find fault; it had unhappily been mixed up in men's minds with the canon law, and was therefore accounted a part of ecclesiastical tyranny.

The two principal helps to reading the Pandects, and consequently to the attainment of a knowledge of the most valuable portion of the Roman law, are the celebrated index of Jac. Labittus, "Index Legum omnium quæ in Pandectis continentur," in which he has placed all the laws of Paulus together, and so of all the other lawyers, from whose works the collection was made. The admirable Giannone says of it, "Fatica quanto ingegnosa, altrettanto utilissima per poter bene intendere il vero senso delle leggi; essendo cosa maravigliosa il vedere, come l'una riceva lume dall' altra, quando sotto i libri, onde furono prese, si dispongono, il qual lume non potrà mai sperarsi, quando così sparse si leggono." [l. 3. c. 3.] And Pothier's edition of the Pandects, which was the work of twelve years: the order or arrangement of the Pandects by Pothier is a most important assistance to the study of the law; he has remedied the difficulty, which was extremely prejudicial to the comprehension of the laws, the disorder in which the texts are placed, not only in each title, but frequently in being dispersed in irrelevant titles. The prefaces, or prolegomena, to this great work, are most perspicuous and singularly instructive.

It now only remains to say a few words concerning the little

work, the title of which stands at the head of the present article, at least so far as it treats of the Roman law. Mr. Butler's book is little more than a naked list of the names of some writers on the civil law, with abundant internal evidence, as to most of the works mentioned, that he never saw them; and there is no proof whatever that he has consulted any one of them. Gibbon says of the Jesuit Petavius, in consequence of an unaccountable mistake in speaking of that composition, "an adversary would prove that he had never read the Henoticon:" in like manner, if Mr. Butler could have an enemy, that enemy would rejoice, that he had written this book.

Gibbon, with remarkable brevity and accuracy, gives a geographical description of the several countries, of which he relates the history; Mr. Butler had probably heard these geographical descriptions highly commended, and he accordingly determined to imitate him at all events, but very unfortunately chose the wrong theatre for such an exhibition; for a geographical description in the history of a body of laws is as much out of place as any other geography, save only that of the parcels, would be in a conveyance. Nor is his knowledge of geography more to be admired than his judgment in selecting a time for displaying it. He says, for example, that "Italy lies 7. 19. East long., and 38. 47. North lat." His meaning is quite inexplicable, for it would puzzle both Mr. Gibbon and the Jesuit Petavius to comprehend it, if they were to return to life for the sole purpose. Some critics are offended with the title of the work: Horæ Juridicæ Subsecivæ, they say, seem to mean term time in the long vacation, these words are therefore a contradiction in terms, but they may be construed to mean sittings before or after term; besides, the use of words may very frequently be shewn by others to be more correct than the author himself could have any reason to suppose. Moreover, a man who could encourage the study of the Roman law, in its present forsaken state, deserves encouragement himself, rather than hypercriticisms, even if his good intentions be put in execution in the most helpless and fumbling manner. It is just, perhaps, to estimate his efforts, not at their real value, but at whatever price he may choose to put upon them; with every disposition, therefore, to show the utmost indulgence, it must nevertheless be confessed, that Mr. Butler's mistakes are surprisingly numerous for a work of extreme brevity. Fabrot, a Frenchman of Aix, the editor of the Basilica, is turned into the Italian Fabrotti; Cornelius von Bynkershoek, whose surname had not much elegance to spare, is converted into a still stranger combination of letters; Brencmann into something rare, and so on;

the Venetians, Ενεται, with all their fondness for masquerade, would hardly choose to appear, even during the carnival, as the Ενῆται. l'Oiseau informs us, "En France du commencement les juges ne prenoient aucuns salaires des parties, au moins par forme de taxe, et contre leur volonté; car les espices estoient lors un present volontaire, que celui qui avoit gaigné sa cause faisoit par courtoisie à son juge, ou rapporteur, de quelque draguées, confitures, ou autres espiceries," but the espices, or épices, would hardly be recognized by either "juge" or "rapporteur" with a cedilla under the chin, as Mr. Butler writes the word "epiçes."

That we may not dwell for ever in words, things are, if possible, treated still more unskilfully. We are told that the Institutions were translated by Theophilus into Greek. His work is not a translation, but a paraphrase, which Huet calls, with reason, most prolix; "elegans quidem et erudita, sed prolixissima paraphrasis." Mr. Butler writes of the Theodosian Code, "It has not reached us entire; an excellent edition of the remains of it was published by James Gothofred at Lyons, in 1668, in six vols. in folio, generally bound in four." It is quite evident from this sentence that he never opened any one of the six vols. generally bound in four; it was not published by James Gotthofred in 1668, nor was it published by James Gotthofred, for it was a posthumous work, as even the title page proclaims; there is hung up in large red letters, nearly an inch in length, like a red lamp to warn Mr. Butler, the inscription, OPVS POSTHVMVM. It was published from the MSS. of Gotthofred by Antonius Marvillius (Antoine de Marville), in the year 1665. If Mr. Butler had turned over the leaf he would have found the editor addressing himself thus—"ad Lectorem. Opus hic habes, amice lector, quod licet posthumum et parenti superstes, eo tamen majorem promeretur laudem quod in illo per annos triginta elaborando et adornando, operi simul et vitæ finem Auctor posuerit." It is true, that the blunders in this little work mainly consist in names and the titles of books; but it is also true, that it contains little else. Mr. Butler says of Brencmann, that he was permitted to collate about the year 1710, that he spent ten years on his work, and published it in 1712; this probably is a mere typographical error, but there are so many errors, that it is impossible not to suspect the accuracy of the author's information. Mr. Butler says of the same most learned person, that he was permitted to collate the Florentine MS. of the Pandects "at the earnest solicitation of our George I."; but Brencmann himself says, that he obtained permission, through the effor sh minis-

ter at Florence, Henry Newton, to whom he had been privately recommended by a friend. As to the general and exemplary silliness of the work, one instance will suffice: "Montesquieu's Esprit des Loix, a work entitled to all the praise which it has received, no one who has not travelled through the Corpus Juris and the Capitularies can form an idea of the comprehensive brevity and energy with which it is written:" it is manifest that Mr. Butler is not in any respect qualified to form this idea. As to its vagueness; "Three editions of the Pandects are particularly distinguished: the Norican edition published by Haloander at Nuremburgh [Nuremberg, called, therefore, in Latin, Mons Noricorum, not civitas] in 1529, in three vols. 4to: the Florentine, published by Taurellus at Florence, in 1553, in two vols. folio, often bound in three; and the Vulgate under which name every edition is comprised, which is not taken from the Norican or Florentine edition." The Vulgate is that text which existed, and was in common use, before the publication of the Norican and Florentine editions. Of the beauty and precision of Mr. Butler's style, we may easily form an estimate from a single specimen: "Andrew Alciat was the first who united the study of polite learning and antiquity with the study of the civil law: he was the founder of a new school which is called the Cujacian from Cujas, the glory of Civilians. Of him it may be said truly, that he found the civil law of wood, left it of marble." It is not easy to guess to what person the "of him" relates; it seems as if the author were equally ignorant and indifferent on that point. It is a great mistake to suppose that style is an unimportant matter; clearness and exactness of expression and of thought go hand in hand. Men talk in a vague, loose, general, and illogical strain, because their ideas are confused and indistinct; but the terse, neat, pointed phrase, indicates that a clear image is present in the mind of the speaker. Mr. Butler is no friend to the salutary project of making a code of laws; he says, "The very attempt to lessen by legislative provisions the bulk of the national law of any country, where arts, arms, and commerce flourish, must apppear preposterous to a practical lawyer, who feels how much of the law of such a country is composed of received rules and received explanations. What could an act of the Imperial Parliament substitute in lieu of our received explanations of the rule in Shelly's [Shelley's] case? The jurisprudence of a nation can only be essentially abridged by a judge's pronouncing a sentence, which settles a contested point of law on a legal subject of extensive application, as lord Hardwicke did by his decree in the case of Willoughby *versus* Willoughby; or by a writer's publish-

ing a work on one, or more, important branches of law, which, like the essay on Contingent Remainders, has the unqualified approbation of all the profession." So far as this is an admission of the author's consciousness of his inability to compose a code of laws, or even to draw an act of the imperial parliament on a legal subject of extensive application, it is quite conclusive and unanswerable, It is commonly said, that it is difficult to make a code of laws; no doubt it is difficult to accomplish any important and valuable work, to build a seventy-four, or a bridge over the Thames: a code has never been made, because hitherto the people have distrusted their governors: but a government that could obtain the entire confidence of the people might with advantage undertake that most useful work, to the completion of which great industry ought to conspire with a very extensive and various knowledge, whereof, "nisi nimio amore antiqui moris studium nostrum extollere videremur," an acquaintance with the Roman jurisprudence ought to form some small portion. Mr. Butler's book is chiefly taken from Schomberg's "Elements of the Roman Law," an amusing and superficial little work; Mr. Butler has no other claims to originality, except what he derives from innumerable mistakes. He has sprinkled his pages with a few additional authorities borrowed from the notes to the 44th chapter of the History of the Decline and Fall of the Roman Empire: a work which has been happily called a "Catalogue Raisonné" of the authors, who wrote during that period, or who have treated of subjects connected with it; and in this point of view it is an admirable work. Mr. Butler, it seems, has set the fashion, and it is a meritorious fashion, for conveyancers to meddle with the Roman law; yet in truth it has less to do with their branch of the legal profession, than with any other: the conveyancer being more connected with the feudal law, and less with the Roman, than any of his brethren. "The great real-property lawyers" are singularly infelicitous when they come in contact with the civil law; when, like the hungry feudalists of old times, they quit their feudal regions and make an irruption into Italy, they are much less successful than their forerunners. Mr. Humphreys, in a reply to some observations on his sensible book, in which he has candidly pointed out the more obvious defects of our law of real property, says to his brother conveyancer and opponent, Mr. Sugden, "you then refer me in support of your views, to the successive codifications under the Roman em[illegible] I cannot reconcile your commencing statements wi[illegible] of information. In common with preceding [illegible] that in the time of Justinian many c[illegible]

required to carry the codes and laws of the empire and the comments upon them. Among the Roman lawyers (you continue) many individuals left behind them hundreds of books on laws. These overwhelming masses rendered a methodical collection and digest of the laws necessary. *This was all which was attempted by the Theodosian Code.*" For the Digest however, as well as for any selection from individual commentaries, I have searched the four volumes of my Codex Theodosianus in vain. While, on the other hand, the numerous Novels of Theodosius II, which both authenticate and form the supplement to his code, exhibit an attempt (using your own expression) to effect something beyond a mere compilation of anterior laws. [*Letter to E. B. Sugden, Esq. by James Humphreys, Esq.* p. 8.] If the passage be fairly cited by Mr. Humphreys from the second edition of his opponent's letter, Mr. Sugden has manifestly confounded, not only the chronology, but the codes of imperial constitutions with the Pandects, which do contain a digest of the opinions of preceding lawyers. In the third edition, the passage seems to have been somewhat mended; there is a clumsy endeavour to cobble it up and to conceal the former blunders. The attempt is equally remarkable for its awkwardness, and for that enviable confidence, which must constitute the happiness of the possessor. The tone of the amended edition seems to say, that the author not only knows the Roman law better than Papinian himself, but is personally more familiar with the emperor Justinian, and better acquainted with him from top to toe, than the empress Theodora herself. Yet it could hardly have been necessary for Mr. Humphreys to have turned over every leaf of the four volumes of his Codex Theodosianus, to look, with exemplary patience, for what he ought at once to have known was not to be found there. If some one, with rash presumption, had asserted that the Rape of the Lock is to be found in Coke on Littleton, what should we think of the familiarity of the Conveyancer with the sacred volume of his legal scriptures, if he were to say in his reply "I have searched in vain in the Norman text of Littleton; in the translation; in Coke's Commentary; and in the Notes of Messrs. Hargrave and Butler, but I cannot find that poem. I have even looked through the other three parts of Coke's Institutes. It is true that in the third part I found something about the rapes of women, but as to the rape of a lock of hair, or of a single hair of the head, or of any other hair, or of any rape of a lock, save that done and committed by a picklock-key in a burglary, I could not find one word; no not even the slightest allusion."

ART. VI.—*The Tale of a Modern Genius; or the Miseries of Parnassus.* In a Series of Letters. London. 1827. 3 vols. 12mo.

THIS is the history of a Mr. Pennie, who has written several poems of great length, and who, we believe, has published two epics and a tragedy. His father was a poor curate in a village in Dorsetshire, who, partly through indolence, and partly through poverty, suffered his son to grow up an idle weed about the parsonage, and neglected either to give him education or to put him in a way of honestly and industriously getting his living. When some natural sensibility in the boy, worked on either by the scenery in which he lived, or by other accidental circumstances, excited in him a love of scribbling, his parent contented himself with expressing his abhorrence of poetry, and driving the poor lad to satisfy his desire in outhouses, barns, at the back of hay-stacks, or by the light of a stolen tallow candle in the dead of the night sitting upright in bed, inking the sheets, and incurring imminent risk of making a conflagration of the divine and his whole family. Without instruction, beyond that which the youth picked up in an indiscriminate perusal of all the books of imagination he could meet with, and struck with this unfortunate malady, the itch of rhyming, it is not to be wondered at, that the youth soon took himself for a genius; an idea which sticks by him to this day. With this inward conviction, he was in possession of a treasure, and avows that, when looked upon with contempt and disdain, as he calls it, by the neighbours, but more probably with an eye of pity to see a poor lad thus run to seed, he used to hug himself with the idea, that some day, when he had secured the bright reversion of a poet's fame, which he well knew was laid in store for him, that these very people would be striving which should be the first to honour him. "I must tell you," says he, in one of his letters, "that my father is become such an enemy to every thing of a literary nature, that I am compelled to write in private. I carry my apparatus for that purpose always about me, and compose at every opportunity which I have under the garden hedge, and behind the stables and the barn. There I studied the greater part of my tragedy, and there do I often stand shivering in the wintry sun-shine while I sigh over my MSS. and exclaim, 'Will this *cacoethes scribendi* ever be of advantage to me? When shall I emerge from these depths of obscurity? My dear friend, what alpine steeps have I yet to climb? How beautifully does Pope describe the toil of those who would arrive at the summit of fame, &c. &c.'" We will

give the author the advantage of presenting one of the early scenes of his youth in his own words; though a little extravagant, it is not without beauty, and would be more pleasing did it not so manifestly contain the germs of much disappointment and self-delusion.

'The only playmate I ever had was a boy of nearly my own age, the son of the then officiating clergyman at Thame, in Oxfordshire. He resided at that time at L—— with his foster-mother, an old lady who took him an infant of a few days old when his maternal parent died, and brought him up as her own son; bequeathing to him at her death, which took place two or three years ago, a handsome property. On his first quitting the village for the distant abode of his father, who himself prepared my young friend for the college, I accompanied him with his foster-mother and sister two or three miles on his journey; and when we parted, we who had scarce ever past a day since the first dawn of remembrance without seeing each other, I sat down and wept aloud on the brow of a hill that commanded an extensive prospect of the surrounding country. They were not childish tears of regret at losing the partner of my infantine pleasures that rolled down my cheeks, and bedewed the flowers of the bank on which I lay: No, they were scalding tears of deepest sorrow, not wholly unmingled with envy, that he, companion of my boyhood, partner of my little cares and joys, was gone far away to receive instruction in every branch of literature; to revel in those delights that a variety of books must always yield, and quaff full draughts of wisdom at the very fountain-head; while I was left deserted and sad in a lonely village, without one kind instructor, and with but few books by which I could obtain any knowledge. Mournfully pleasant, my dear Frank, is that spot to me still: often do I throw myself on that very bank, and gaze on the delightful prospect of hill and plain, of forest, purple heath, and verdant grove, with mansion, spire, and cot, and winding flood between, stretching out in sky-bound amplitude on every side; sighing to become acquainted with that world which lies so fair before me, of which as yet I know nothing; where, no doubt, I shall find a thousand kind friends ready to promote my views, where the honoured and the learned will generously press forward to take me by the hand, and realize all my hopes. Often do I sadly sigh, "Lovely flowers, ye bloom on this mossy bank as bright, and smell as sweet, as when I lay here and watched, with tear-dimmed eye, the vehicle that bore from me the friend of my childhood slowly ascending yonder hill; till, having gained the summit, it suddenly shot from my aching sight into the vale below, and I saw it no more. The venerable oak casts over me as cooling a shade, and the voice of the wind through its dark green foliage sings the same soft song of melancholy pity. The distant castle embowered in groves, and the saint-devoted spire on the margin of the blue lake, gleam as brightly in the sunbeam; the ancient Var still pursues its undeviating course in glittering meanders through meads of golden flowers; the skies are hung with clouds as beautiful, the birds fling their music abroad as sweetly, and the notes of the stock-dove from yonder woods steal as soothingly on the breeze as in t

well-remembered hour. All things seem the same,—and I too, alas! in situation am still the same, though somewhat advanced I trust in intellectual improvement; yet like a plant I vegetate on the same wretched spot. But he who was my playmate, my friend, full-fraught with learning's precious store, has embarked on the sunny ocean of life, whose rugged billows the smiles of fortune smooth to sweet tranquillity; whilst I stand mournful on the wild and rocky shore sighing for some far-off land of promise, without the means to spread a sail or lift an oar." But I wander:—let me pursue my story. This friend of my boyhood returned to L—— with every returning summer to visit his foster-mother and sister. With what exquisite delight was the period of his arrival hailed by me: I have not words to paint the joy of our first meetings. He returned, like a laden bee, with still fresh acquisitions of knowledge, of which he was freely communicative, and by which I endeavoured to profit to the utmost of my power. I now considered myself as rapidly improving; for I could draw tolerably, and had made great progress in arithmetic, grammar, &c. At these happy times, instead of wasting our hours in play, we constantly met together under some apple-tree in the garden, where he would recite to me numberless passages from our best classic authors, which he had studied under his father. He had likewise learnt to deliver dramatic speeches with a just emphasis, correct pronunciation, and due modulation of voice, accompanied with suitable action and gestures, which, with the words, were nearly all new to me. Never can I forget the rapture I felt when some of the beautiful lines of Milton, Thomson, Shakspeare, Pope, and other poets first fell from his lips on my ear. Then it was, my dear friend, that the first dawn of poetic inspiration came upon my transported soul, like the first sweet rays of light to him who, born blind, miraculously becomes endued with the delightful powers of vision. A new world of beauty, of which till then I never had a glimpse, burst on my sight.'—p. 21—25.

These visits ceased when the youth went to college, and the author did not see him again till he came to take possession of his relative's property, when the young men met and parted with mutual disgust. A college, the world, and fortune, had stiffened the simple boy into a young man somewhat pedantic, perhaps, a little formal, and not a little consequential: in short, into that unpleasant person, a juvenile Bachelor of Arts; while the rustic poet was probably as little changed in mind as in manners; would shock his friend by false quantities and other symptoms of *freshness*, such as the expression of a natural enthusiasm, and, perhaps, an over-strained admiration of great names, immortality, fame, &c., and all those very raw indications of want of culture, soon rooted out by the university jibe, and the strictly worldly, and unromantic cast of university motives and modes of life. We do not complain of Mr. Pennie for being disappointed in his early life, but we dislike the harsh and ill-natured spirit in which he speaks of every

person who has not been prepared to hail him as a genius, and give up their time, talents, and money, for the sole purpose of pushing him up the hill of Parnassus. We will give the last scene of this boyish friendship as an illustration of the narrow feeling we are speaking of:—

'These highly-pleasing and annual visits of my friend were continued but a few seasons; he was removed to college, and for some years I saw him no more. I was then wholly left to the guidance of my own studies, and to the wild imaginings of fancy; like a little lonely bark on a rough and darksome ocean, tossed here and there by the veering winds and storms. About fifteen months ago the foster-mother, and, five weeks after, the sister, of my friend died; when he once more returned hither, to take possession of part of the property, to which by their deaths he became the heir. I flew with all my wonted eagerness once again to behold the playmate of my childhood, the friend of my youth, the instructor to whom I fancied myself under so many literary obligations. Alas, instead of the open-hearted boy, who used to fly laughing with tears in his eyes like the rosy morn of May, to welcome me to his outstretched arms, I met a young man stiffened up in the extreme of fashionable mourning, who, with a kind of haughty condescension, held forth his hand to my eager grasp, the effect of which seemed to shock his delicate nerves. So changed was his person, so altered his conversation, which was a strange mixture of pedantry, foppishness, and affectation; so cold, so ceremonial, his manners, that I shrunk disgusted and astonished, inwardly exclaiming, "Can this indeed be my old friend, whom I so much esteemed? No longer do I marvel at his studied neglect, in never condescending to drop me a line, at his never inquiring after my fate." Chilled to the very soul with his frigid indifference and affected forgetfulness of former days, I soon prepared to retire. Our parting was more cold, if possible, than our meeting. Contempt and bitter sorrow mingled with my feelings; a scalding tear fell involuntarily from my eye on his hand, as he carelessly held it forth with a "Good morning, Mr. ———." It spoke volumes. It was the last warm tribute to our former friendship, past with the dreams of childhood;—a friendship that I would not have bartered for a dukedom. I saw a momentary smile of disdain stir the listless apathy of his countenance, on which insensibility did "cream and mantle like a standing pool." A burning arrow seemed to transfix my soul. I hurried from his presence, resolved never more to seek the society of one whose heart, notwithstanding all the learned lumber of his head, was so totally lost to those generous and godlike feelings, that render man the noblest work of his Omnipotent Creator.'—p. 25.

At this critical period of the author's life had he met with some benevolent person, who, fancying that he had discovered a genius, had been disposed, either by his own means, or with the assistance of others, to prepare the youth for college, and after have contributed to his support while there, the poet, giving his attention to the studies of the place, would, in due

time, have taken a degree, entered into holy orders, with or without a small fellowship, and, forgetting the original groundwork of his fortune, or remembering it only in a prize poem, or occasional stanza, would have found himself secure of subsistence for life; happy, probably, in his contempt for his early aspiration. Kirke White is a case in point in all but health and true poetical talent; for no one can read his juvenile productions without acknowledging that he had a mind pregnant with poetical thoughts; whereas, in our opinion, no one can read the poems profusely scattered over these volumes without perceiving that the author never gave birth to a poetical thought in the course of his existence. Splendid and pompous verse, sounding names and copious allusions to things already sanctified by the genius of others, indeed abound, but one line beyond the common-place contents of the poetical Gradus we, at least, cannot discover. An early aptitude at combining the words and ideas of others, and a soft and excitable temperament mixed with self-conceit, too often constitute the elements of a modern genius, and had this combination deceived any worthy gentleman in the neighbourhood, where would have been the harm; the disappointment would have been distant and slight, and though the genius had disappeared, the respectable and well-educated clergyman would have remained a substantial substitute. But with a father unable, or unwilling, to put forth his hand, without a friend or adviser, the fate of a young man, overflowing with verse and vanity, might have been minutely predicted by the moral geographer. The course is clear: a writer in an attorney's office, the usher of a school, a strolling player, a starving author composing in the midst of domestic distress, an unwearying applicant at the doors of the London publishers, of the managers of theatres, and, up to the present moment, dependent either upon a wretched school, or next work still in MS., and to remain so. This is a melancholy picture, and it is painted to the life in the volumes before us, heightened by all those aggravating circumstances which may be supposed best calculated to weigh down a person of irritable temperament, sanguine hopes, and desponding apprehensions, perhaps we may add, warm affections.

It is creditable to this country, that, although a wandering author and player is seldom a respectable personage, that the benevolence of many individuals prevailed over a too justifiable prejudice; and that in the course of his life, not yet a long one as we believe, Mr. Pennie has been cordially and generously assisted on very frequent occasions. Every effort has been made to bring his claims before the public, and when the world

refused to accept his poetical offerings, the active benevolence of worthy persons, who are all mentioned by name in these pages, has exerted itself to relieve the consequences. It is not so creditable to Mr. Pennie, that when persons have not been disposed to give up their own pursuits to enter into an examination of his claims, or have not had the taste to relish his muse, that he universally speaks of such persons with harshness and illiberality, and describes their conduct in a manner which, in many instances, bears marks of being a sneering misrepresentation. Against one individual, indeed, he seems to have had cause for more than an ordinary portion of wrathful indignation; for this person, the proprietor of a country newspaper, not only withheld from him money he had engaged to pay him, but deceived him even in a more essential point. "No: my reward for my literary labours was a more than usual quantum of empty promises of speedy payment, and that my next work should have the most flattering critique in the *Westminster;* as, in his wine-inspired vauntings, he assured me, that a relative of his wrote for that Review, and could insert in it whatever he pleased." Alas! alas! month after month elapsed and the money was not paid; but worse than all, his next work was never noticed by the "relative who wrote in the *Westminster.*"

The excellent Mr. Allport, a clergyman at Chippenham, who is conspicuous in these pages for his ardent and active benevolence, shares with Mr. Pennie himself much delusion on the subject of "Reviews." The Rev. Josiah Allport in writing to his unhappy protegé says that a gentleman in his neighbourhood, no other than the poet Barry Cornwall, having written a volume of poems, which were favourably reviewed in the Edinburgh Review, had immediate offers from one bookseller of £.400, from another of £.500, and another of £.700, for "any thing that he might have in hand." "So you see" says this gentleman, "what is to be done by these Reviewers." We can assure this gentleman, that an equally favourable review of Mr. Pennie's poems would have had no such effect. In the first instance we are pretty sure that he is wrong in his facts; and next, we can tell him, that Reviewers have little power in recommending the worthless, but much in making known the good or the pleasing. Barry Cornwall's first productions were of a character to please extensively; and we believe the booksellers found it out even before the Edinburgh Review. The ideas of the "Modern Genius" respecting Reviewers are still more extravagant than those of his reverend friend.

'There was a time,' says he, 'when at the sight of a review my heart would leap with hope and fear: there was a time, when it was in the

power of a critic to have poured a flood of unutterable delight and glory over the darkness of my path, and made me feel towards him as an Indian towards his sun-god in the season of abundance, or the joyous hour of victory; not by flattery—for that I had not the means to *purchase* [of his sun-god] but by an honest and candid discharge of his duty self-enjoined on him, and due to me and the public, for whom he professed to be a literary caterer. * * * I am buried deep in the grave of disappointment: and those who should have kindly led me into light and hope, have heaped oblivion on the ashes of my genius.'—vol. iii. pp. 327–8.

'The noble host of literary characters, the light and glory of my country, I foolishly imagined in the ardour of my feelings would most certainly have stretched forth the hand of fellowship and patronage, have assisted me to emerge from the shadows of village obscurity, and aided my ascent up the toilsome steeps of fame: or at least from a sense of justice and honour, have made known my works to the public by an impartial notice of them in the *reviews*—a right to which all others I conceive are entitled, and which all, I believe, except myself, have obtained. But no: my sanguine expectations in this also were doomed to the severest disappointments. In spite of the lofty ambition of my Muse, in her choice of Epic subjects for her themes, the respectable manner in which my poems were published, the earnest and unwearied applications of my friends who had access to literary characters, and the misfortunes I unavoidably laboured under, my just claims were resolutely and pertinaciously denied, and my name shut out from all the leading reviews of the day!!'—p. 326.

Our readers will perceive that all this goes upon a supposition which the author entertains with the most unhesitating confidence: when his name was thus *resolutely* and *pertinaciously* excluded from notice, it would glance across the mind of almost any other man than the author, that the fault might lay in himself. The discovery of merit is a pleasant task, and the analysis of genius equally delightful, but of all drudgery, most wearisome to the writer, and disgusting to the reader, is the hateful labour of shewing that a large book is a dreary and unprofitable waste. When the author happens not only to be destitute of genius, but likewise of means, and looks up to his verse as a source of subsistence, then indeed we are not surprised at the resolution and pertinacity of the critic who refuses to engage in so painful an occupation.

The appetite of the present age for poetry is not sharp: it is consequently fastidious in its food; there have been times when this author's verse would have been admired, and, in the English *corpus postarum*, we believe there are authors to be found who have been as verbose and as empty as himself: the time for such productions is past.

Mr. Pennie is by no means a dull man: though we cannot

allow his claims to the honours of a poet: he is neither deficient in talent nor in information, though it is true that in his ravings about Chatterton he confounds sir Robert with Horace Walpole, and accuses that "selfish and ungenerous statesman" of "imposing his flimsy productions on the public as a translation of an Italian MS." &c. With the autobiographical part of his book he has mixed up, injudiciously enough, very copious descriptions of the antiquities and natural beauties of the western counties of England, which shew some taste and reading: his success in this department, though here so ill-placed, would induce us to recommend him to employ his time (since he is fairly committed for a literary life, and supposing that his ambition is cured) in some of the respectable, but useful, and seldom well-performed, tasks of compilation.

ART. VII.—*An Inquiry into the Power of Juries to decide incidentally on Questions of Law.* By George Worthington, Esq. 8vo. 1825. pp. 197.

SUCH is the title which Mr. Worthington has thought fit to prefix to his book, and which, according to usual practice, we have transcribed; but it is altogether undescriptive of the contents or objects of the work. The book pursues no *inquiry* whatever: it does not, in any manner, investigate the subject, but asserts in positive terms the disputed doctrine, with a reference to authorities on one side only of the question; and assumes the point in dispute to have been proved, without attempting to submit it to the tests of evidence or of argument. He is not satisfied with suppressing, in his pretended *inquiry*, almost all the authorities opposed to his views, but has quoted partially and unfairly, and in many instances untruly, even those on which he relies. His object has clearly been, not to *inquire* into the constitutional power of juries, but to undermine and destroy it. If his book had been truly entituled, it might have been called, after the style of De Foe, "The Shortest Way with Juries; or Proposals for the Establishment of absolute Judges:" or, in the manner of Swift, "A Modest Proposal for preventing Juries from being an obstruction to arbitrary Judges, and for making them subservient to Despotism."

Dr. Middleton was once told, that a book he had published had been answered twenty years before the date of its publication. If it were not profanation to associate the writer of the book before us with the very learned person just named, we might offer a similar repulse to Mr. Worthington; adding,

however, many years to the period of the anticipated disproof. His book has been answered by the productions of many able writers, both legal and unprofessional, who applied themselves to the investigation of this subject when lord Mansfield attempted to bind the press by the doctrine Mr. Worthington now contends for. It was answered even by earlier writers; but, in modern times, it has been answered by the eloquent, arguments of Mr. Erskine, at the bar; by the speeches of Mr. Fox, Mr. Burke, Mr. Pitt, and of other celebrated men, in the House of Commons; by the speeches of lord Camden and of lord Loughborough, and of other peers of unquestionable talent, in the House of Lords; and finally, by the declared sense of the legislature in the Libel Act.

It may be asked, perhaps, why, under such circumstances, we think this book worthy of notice? Why we are induced to bestow attention on a weak attempt to revive an exploded doctrine? Our answer is, that we consider the right of juries to give a general verdict, and to decide upon the whole question of the guilt or innocence of those who are tried before them, to be absolutely essential, not merely to the liberty of the press, but to the general existence of constitutional freedom in this country. If this right be wrested from them, and transferred to the judges, the protection of a trial by jury, in all cases of contest between the Crown and the subject, would, in our opinion, be destroyed: and though we undoubtedly think that better securities might be provided for the due administration of justice than can be obtained from the jury system, in any shape, yet it is of the highest importance that the securities which such a system undoubtedly may and does offer to that all-important end, should not be swept away by the arbitrary determination of our judges, aided and assisted by the misrepresentations of despotism-advocating scribes.

It would, however, seem that the subject is not quite inopportune. The following case, copied from a report in *The Times* Newspaper, of the 1st of June, 1826, shews pretty plainly, that the doctrine attempted to be revived by the publication before us is by no means out of favour with the Bench at the present time.

"*Court of Common Pleas, May* 31.

"Walker (Clerk) *v.* Ridgway.

"This was an action tried at the last assizes for the county of Hereford, against the defendant, a farmer [for] not having set out properly the tythes; and the Court granted a new trial, on the ground that the verdict for the defendant was contrary to

evidence and to law, as propounded by Mr. Justice Burrough at the trial.

"Mr. Serjeant Wilde had since obtained a rule to shew cause why the venue should not be changed, on the ground that a fair trial could not be had in Herefordshire, on account of the strong prejudices excited there by publications that had appeared in the *Hereford Journal.*

"Mr. Serjeant Taddy yesterday shewed cause against the rule.

"The Lord Chief Justice spoke at some length, and in the course of his remarks, took occasion to say, that in order that he might not be misunderstood (as it had often been tauntingly said, that those who professed themselves friends to the liberty of the press were not so in effect) he would state what the liberty of the press was. The liberty of the press was, that a man, unrestrained by the horrors of the law, might publish whatever tended to the advancement of useful knowledge, and to prevent the effect of error in cases where the public interest was concerned, and on such subjects writing with a becoming spirit. God forbid that any man should suffer, either in purse or in person, for any thing that he might so write! *But, if the press took upon itself to teach juries to perjure themselves, if the government of the country did not interfere to prevent it, it would be the duty of that and every other Court to do so. And let it not be forgotten, that they had the power in their hands to put a stop to it; for* it was impossible for any man to read the paragraphs in those papers without seeing that they were gross contempts of that Court, and which the Court would immediately punish by fine and imprisonment. But they were most anxious never to avail themselves of that most extraordinary authority; they did not like, at any time, to place themselves in the situation of judges and jurors, for that they were when they so punished: they therefore forbore, as long as they could, to exert the power which the legislature, in ancient times, invested them with. He should think that they were deserting their duty, if such practices were not stopped in another quarter, if they did not put a stop to it [them]: if they did not, we might boast of the laws of England, but they would be at an end; it was a thing so absurd and ridiculous. It was said, that the *dicta* of judges were not to be attended to—that they were constantly conflicting with each other. There might be uncertainties in the law; but if juries were not to attend to the judge, on matters of law, would there be any law in the country? If cases were not to be decided by some rule, which rule the jurisprudence of the country had laid down, but to be left to

the arbitrary and uncontrolled direction of persons placed in a jury-box, no man in England would know what his rights were. A man might claim; but, if the jury were not to attend to the judge, as to what the rules were, there was an end to his property, to his rights, and to his character. And this was what those who contended for a certainty of decision, were contending for. *He, for one, would say, that those who advised juries not to attend to the judge, advised them to perjure themselves. He was sure that those judges near him would never take upon themselves the withdrawing of the decision of facts from the jury; but let the question of law be with the judges: they were to answer for it, and juries were to attend to their directions.* He would state, for one, that, whatever were the consequences, he would be for punishing for contempt of Court those who acted in such a manner as he had described.

"The other judges concurred.—Rule absolute."

This doctrine is still more plainly promulgated by the same chief justice, in the following case, which came before the Court in Easter Term last. We extract the report from *The Morning Chronicle.*

"*Levy* v. *Milne.*—Mr. Serjeant Wilde shewed cause against a rule, obtained on a former day by Mr. Serjeant Adams, to shew cause, why the verdict should not be set aside, and a new trial had. This was an action brought by Mr. Levy, a sheriffs' officer, against the proprietor of a periodical publication, called *The Spirit of the Times*, to recover a compensation in damages for a libel published in that work. The alleged libel was in the form of a song, which was headed, "Levy the Bum." The trial took place before the Lord Chief Justice, at Westminster, at the sittings after last term, and the Jury returned a verdict for the defendant.

"Mr. Serjeant Wilde, in shewing cause against the rule, observed, that this was not a case in which a jury had given a hasty verdict; but they had taken time to deliberate upon the facts proved in evidence; and after calm and cool reflection, they had come to the conclusion, that the defendant was entitled to their verdict. * * * The jury who tried the cause were of about the same rank as the plaintiff, and were fully able to judge of the object, character, and tendency, of the publication; and they had pronounced it to be no libel on the plaintiff. He therefore contended, that, as the jury, in case of libel, were judges of the law, as well as the fact, their verdict ought not to be set aside.

"The Lord Chief Justice Best said, that he would not trouble Mr. Serjeant Adams to reply, the Court having made up its

mind on the question under discussion. One of the most beautiful parts of our constitution was, that if any thing was done in error in our Courts of Justice, it could afterwards be set right in the Court above. If this were not the case, trial by jury, instead of being a blessing to the country, would prove the reverse. If the jury were judges of the law, as well as of the fact, much evil would arise from arbitrary decisions. In the present case the jury had found a verdict against the law. The learned judge who tried the cause, pronounced the publication to be a libel on the plaintiff; and he was authorized to do so, after evidence was received that it applied to the plaintiff, and imputed to him that he had acted wrongfully in his character of sheriffs' officer, and held him up in a most ridiculous light. * * * The jury had returned a verdict in direct opposition to the law and the judge's opinion. His brother WILDE had often stated, that, in cases of libel, juries were judges of law, as well as of fact; but that he denied. The opinion of the learned Serjeant was probably founded on the 32nd of George III, c. 60, which act of parliament only applied to criminal cases, and had no relation whatever to civil actions. His lordship, however, protested against the doctrine of juries being judges of law in criminal cases. They were bound to confine themselves to the fact, whether the innuendo were proved, or not—they, however, might return a general verdict. His lordship further observed, that if a jury had a right to act in defiance of, and in direct opposition to, the opinion of the judge—if juries were allowed to do so, the character of judges would be left to the arbitrary discretion of juries, and would not be protected by the law. He was firmly convinced, that the publication was libellous, and that the rule ought to be made absolute."

"The other judges concurred with his lordship.—The Rule was made absolute."

We shall endeavour so to conduct our investigation as to escape the perils of the commination denounced in the first of these cases, and keep ourselves free from the pains and penalties of fine and imprisonment; but we confidently hope to make it appear, that English juries have, and always had, and of right ought to have, the power of deciding, incidentally, questions of law—or, in other words, to determine the whole issue submitted to them, by pronouncing a general verdict; and that that power imposes upon them *the obligation of so doing*.

Mr. Worthington, with a pretence of research, which a perusal respect confirm, professes that it is pre- may not have access to old law-books, or to remove *the learned dust* reposing on

unopened folios;" and he proposes to establish the side of the argument which he has adopted, "by ample quotations from established authorities." [*Preface*, p. vi. vii.] But they who look into his book, with the means of forming a judgment on the subject, will find abundant evidence, that this gentleman has not soiled his fingers with "the learned dust," of which he speaks so affectedly. They will discover also, that his "old law-books" are quoted through the medium of modern translations. Thus we are favoured with *Glanville* and *Bracton* in English, except when he transcribes from some author who has inserted a passage from the original. So his historical deductions are almost all traceable to Reeves's "*History of the English Law*," Hume's "*History of England*," and other similar books; but with references, not to the modern works from which he obtained them, but to the recondite sources resorted to by the authors to whom he has applied. His contributions are levied, very frequently, without any acknowledgment whatever; but, in a few instances, he artfully inserts some introductory matter, with a slight allusion to the author brought under contribution, and then gives important extracts, without any further recognition, and apparently as his own matter. Thus in his statement of the origin of Juries [p. 2.] he alludes generally to Dr. Pettingal's learned "Inquiry into the Use and Practice of Juries among the Greeks and Romans," and quotes in substance, not literally, the result of that elaborate dissertation: he then, without any acknowledgment, either in words, or by typographical marks, inserts four pages from Dr. Pettingal's work, *verbatim*. In order to make detection more difficult, he has broken the matter into paragraphs differently from Dr. Pettingal, so that it is only by a verbal collation of the passages, which we have made, that the extent of the depredation can be ascertained; and he has altered the punctuation: in both which deviations from his original he has been (as may be expected) very far from accomplishing any improvement. We could not trace him through this work of deception and disguise, without calling to mind Sheridan's admirable comparison of such plagiaries to gipsies, "who disfigure stolen children, to make them pass for their own." With respect to his boasted reference to authorities, we have to observe, that he has quoted on one side only, and the scantiness of those references, manifests either gross ignorance, or wilful suppression, of the history of the controversy which is the subject of his book.

The object of the publication is stated in the following terms; in citing which we shall carefully retain Mr. Worthington's *italics*.

'Eminent writers have contended for the *propriety* of Juries' shewing the most respectful *deference* to the advice and recommendation of Judges, on points of law. It is the object of this inquiry to demonstrate, that, on every point of law, Juries *are bound to obey* the direction of the Judge presiding at the trial.'—*Preface*, p. v.

The full and regular refutation of this position must, for the sake of method, be referred to a subsequent part of this article; but, as the position may be considered somewhat in the nature of a definition of the point in dispute, we will bestow one word upon it here. If the jury be *bound in duty* to find their verdict in *obedience* to the direction of the judge, then the judge has a right to *command* what verdict they shall deliver. Command and obedience are relative terms: they are the reciprocal qualities of power and of duty, and are essentially co-existent. The *duty of obedience* can never be claimed from any man, when the *right of command* does not reside in the claimant. Mr. Bentham has expressed this reciprocation in such clear and forcible terms, that, although so plain a point can but little require the aid of authority, we are tempted to add his very practical illustration.

"I. That may be said to be my *duty* to do, which you have a *right* to have me made to do. I have then a DUTY *towards* you: you have a RIGHT as *against* me.

"II. What you have a right to have me made to do, is that which I am liable, according to law, upon a requisition made on your behalf, to be *punished* for not doing.

"III. I say *punished;* for without the notion of punishment, no notion can we have of either *right* or *duty*." *

Fragm. on Gov. p. 132, n. (a) Edit. 1823.

We shall find hereafter, from unquestionable authority, that juries are absolutely dispunishable for finding a verdict contrary to the direction of the judge.

It has been said by the author of "Eunomus," [*Dial.* 3. *s.* 53.] that the right of juries to find a general verdict upon the

* This point is stated in terms of most remarkable coincidence, by an author who is among the very *antipodes* of Jeremy Bentham.—Dr. South says, "No power can *oblige*, any further than in taking cognizance of the offence, and inflict penalties in case the person obliged does not answer the obligation, but offends against it. This proposition stands firm upon this eternal truth; that nothing can be an obligation that is absurd and irrational. But it is absurd for any person to give laws and obligations to that of which he can take no account, and which, upon its transgression against them, he cannot punish" [South's *Serm.* v. 5. p. 228]. This sermon, which was preached at Westminster Abbey, on the 5th of November, 1663, is worth reading, as an unqualified and most outrageous assertion of the duty of passive obedience and non-resistance, and of "the right divine of kings to govern wrong."

whole matter in issue has been made use of chiefly in the case of libels; and he ventures to add, that, "perhaps it would never have been contended for, as a general doctrine, if it was not to serve particular purposes." It is undoubtedly true, that the controversy before us has chiefly arisen in political cases—cases of libel, or of treason—because they are almost the only cases in which judges have any temptation to encroach on the province of juries; but Mr. Wynne would have been much nearer the fact, if he had stated, that this right of the jury has hardly ever been *denied* but in political cases, and probably would never have been denied, but for political purposes. The State Trials (which, on account of the exposure they contain of judicial irregularities, have been denominated, "Libels on the Judges") clearly prove this: and Mr. Wynne himself is obliged to admit, in this very discussion, that, in political cases, "the judges' directions have been carried too far: nobody," he adds, "can read the State Trials, in particular, without owning it" [*Eunom. in loc. citat.*]. That judges appointed by the Crown (and, according to the modern and unconstitutional practice of *judicial translation*, with the prospect of further promotion in view) should have a leaning towards the possessors of power and the distributors of rank, may, we suppose, be taken for granted. Indeed Blackstone, courtier as he was, candidly admits, that, "It is not to be expected from human nature, that the few should always be attentive to the interests of the many—and that whenever the administration of justice is entirely intrusted to the magistracy, a select body of men, and those generally selected by the Prince, or such as enjoy the highest offices in the state, their decisions, in spite of their own *natural* integrity, will have frequently an involuntary bias towards those of their own rank and dignity."—*Comm.* v. 3. p. 379.

But to apply ourselves to the immediate subject before us.—The doctrine in question having originated in cases of libel, its soundness will, perhaps, be best examined by considering it in connexion with the law of libel; although its application, if it be really *law*, must be of universal application in all cases of trial by Jury.

The offence of libel is scarcely traceable, in the history of English jurisprudence, beyond the institution of the Star-chamber. It is indeed noticed by Bracton [*l.* 3. *de coronâ*] in a detail of personal injuries, in words which are almost a literal transcript from Justinian's Institutes, [*l.* 4. *tit.* 4. *de injuriis*]; but there is no adjudication of authority in English law-books, until the case of L. P. in the Star-chamber, Easter Term, 3 *Jac.* I. In this case, the particulars of which are not material

to our present purpose, six points were resolved upon by the Court, which are said to be the leading rules of doctrine in cases of libel down to the present time, but which, if strictly enforced, would operate to the almost entire prohibition of public writing. Of these points we would say, with Dr. Jones, that, "though their author, Lord Coke, refers to them in terms of high approbation [5 *Rep. fo.* 124, 125, &c.] and though they have been held as rules of law in cases of libel from the age of Coke to the present time, they are quoted with unwillingness by every friend of liberty, who considers any, whatever, vestige of the STAR-CHAMBER, as the remnant of a dissolved despotism.'—Jones, *de Libellis Famosis*, p. 6.

It has not been the good fortune of the Star-chamber to have many *defenders*, much less *eulogists*. Lord Bacon, indeed, in his History of Henry VII, speaks highly of this Court; but this fact has generally been produced as a lamentable illustration of the force of political prejudice over the noblest human intellect. In modern times, however, this Court has been abandoned to almost universal execration. Even Hume, with all his inclination towards despotism, and notwithstanding his occasional attempts to excuse some of its outrageous judgments, does not hesitate to say—"there needed but this one Court, in any government, to put an end to all regular, legal, and exact, plans of liberty: * * * I much question, he adds, whether any of the absolute monarchies in Europe contain at present so illegal and despotic a tribunal." [Hume's *Hist. regno Eliz. App.* III.] But this Court has lately found a most determined champion in Mr. Holt. He characterises it as "*a most useful subsidiary* IRREGULARITY." [Holt's *Law of Libel*, p. 27]. If Mr. Holt had referred to his Statutes at Large, he would have found this Court more correctly described in the act of Parliament which abolished it, the 16 *Car.* I. That statute declares, that "the Judges of the Star-chamber have undertaken to punish where no law doth warrant; and to make decree for things, having no such authority: and to inflict heavier punishment than by law is warranted: and the proceedings, censures, and decrees, of that Court have been found to be an intolerable burthen to the subject, and the means to introduce an arbitrary power of government." Mr. Holt, being an advocate for arbitrary Judges, cannot be expected to favour Trial by Jury, and he accordingly says, in express terms, with reference to cases of libel, that, "even the reason of the Constitution almost seems to dispense with Juries, *where they can be of so little use!*" [Holt, *Law of Libel*, p. 27]. He extols the judges for "their contempt of the dangerous praise of keeping pace

with the liberality of the times;"* and he classes the offence of Libel with "murder, arson, larceny, and other atrocious crimes." The extent of liberty which he would allow to the press will be seen in the following quotation, which he makes from the speech of sir Philip Yorke, Attorney-general, in the case of *Rex v. Franklin,* [9 *St. Tr.* 255].—"The liberty of the press is to be understood of a legal one. A man may lawfully print and publish *what belongs to his own trade*" [Q. Shop-bills, and trade-advertisements?]; "but he is not to publish any thing reflecting on the character and reputation, and administration, of his Majesty, or his ministers; nor yet to stain the character or reputation of any of his subjects; *for,* as I said before, to scandalize and libel *is no part of his trade.*"—This Mr. Holt calls "an *admirable* and explanatory statement of *the true grounds and principles of the law of libel.*" [Holt, *Law of Libel,* p. 114].—But we can refer Mr. Holt to a more compendious and judicial limitation of the liberty of the press. In the reign of Charles II the twelve Judges resolved that it was unlawful to write any thing respecting government, in the following plain and unequivocal terms:—"If you write on the subject of government, whether in terms of praise or censure, it is not material; *for no man has a right to say any thing of Government.*"—See the case of *Henry Carr,* How. *St. Tr.* v. 7. p. 1127.

But to return.—As the doctrines of the law of Libel originated in the Star-chamber, and that Court assumed the decision of all offences of that nature, and did not allow the intervention of a Jury, the question now under investigation could not come into discussion, in such cases, until after the abolition of that tribunal. Nor did it in fact arise immediately after that event. It has been suggested, however, with great probability, that the claim subsequently advanced by the Judges to take from the Jury, and assume to themselves, the right of deciding upon the guilt or innocence of a person accused of publishing a libel, under pretence that that is matter of law, arose from the circumstance that originally in the Star-chamber, where there was no Jury, the Judges of that court did of necessity determine the whole issue.†

* In this compliment Mr. Holt has been rather anticipated by the notorious Earl of Strafford, who extols the judges of his times for "ministering wholly to uphold the sovereignty, carrying a direct aspect upon the prerogative of his Majesty, *and not squinting aside upon the vulgar and vain opinions of the populace.*"—Strafford's *State Letters.*

† See "*Another Letter to Mr. Almon, in Matter of Libel,*" p. 41.—We presume that these celebrated letters are included in Mr. Worthington's

The instance which has generally (but not with historical accuracy) been relied on as the first authority in support of the doctrine in question, is the case of *The King* v. *Clarke*, 3 *Geo.* 2, A.D. 1729, [Barn. *Rep.* p. 304,] in which it was insisted, on the part of the Crown, that as the defendant was charged with publishing a seditious libel, *the malice was immaterial;* and Lord Raymond, C. J. before whom the cause was tried, directed the Jury, that they had nothing to try, but the printing and publishing. The same Judge, a few years afterwards (1731), in the case of *The King* v. *Franklin* [9 *St. Tr.* p. 255], held the same doctrine, telling the Jury that, "the question of criminality was for the Court, and that the Jury *had nothing to do with it.*" In the case of *The King* v. *Owen* [10 *St. Tr. app.* 196, A. D. 1752], Chief Justice Lee followed the example of Lord Raymond; as did Chief Justice Ryder, in the case of *The King* v. *Nutt* [cited in 3 *Term Rep.* p. 430, in the notes]. Lord Mansfield held the same doctrine, and Mr. Justice Buller, and Mr. Justice Barrington, likewise maintained it in the celebrated case of *The King* v. *the Dean of St. Asaph,* in the year 1783. Lord Kenyon also was a strenuous supporter of this doctrine, in all the cases which came before him. To which we may add, that an attempt was made to establish the same doctrine in America, in 1735, in the case of *The King* v. *Zenger,* by the Ch. Justice De Lancy.

This is all the authority which the most learned Judges and Crown-lawyers, who have maintained this doctrine, have been willing, we do not say able, to bring together in its support. Of the value of this scanty authority, contradicted as it is by the opinions of other Judges of equal professional learning, and of greater reputation for political impartiality; opposed also, as it is, to the general rules and principles of English law, we shall inquire hereafter. At present we give this summary of the authorities relied upon by the partizans of the doctrine, merely to fix its *age.* That no *ancient* authority could be found on which the assertors of the doctrine could *safely* rely may well be believed; for in the case of *The King* v. *the Dean of St.*

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denunciation of "the ephemeral publications on this subject." [*Worth.* p. 136.] What productions he intended to include in that censure, it is impossible to say exactly; for his book does not evince the slightest acquaintance with any of the controversial publications which have appeared on this subject, with the single exception of the *Letters of Junius.* Indeed Mr. Worthington displays gross ignorance of the history and particulars of this celebrated controversy. In vindication of "*Almon's Letters,*" we will mention, that they are said to have been written by Mr. Greaves, a very learned Master in Chancery, at the desire of Lord Camden and of Mr. Dunning, and to have been corrected, before publication, by those eminent lawyers.—See *Rex* v. *Hart,* How. *St. Tr.* v. xxx. p. 1276.

Asaph, in which the question was fully discussed, and in which the Court manifested the plainest determination to enforce, and the most painful anxiety to vindicate, this doctrine, Mr. Erskine, the defendant's counsel, openly and in express terms, defied both the court and the counsel for the prosecution, "to produce one ancient authority." On that occasion, Mr. Justice Buller, who at the trial, at which he presided, had exerted himself violently in the promulgation of this doctrine, and now defended it in full court, justified it upon the ground of "modern practice," and said, that, "*upon tracing the question back*" Lord Chief Justice Raymond had held the same doctrine in 1731: and he even conceded so much to the *nonage* of this law, as to observe, that, "as for twenty-eight years the counsel of defendants had yielded to the doctrine, it seemed to him that gentlemen ought not to agitate it again." So likewise Mr. Justice Barrington, at the trial of the Dean of St. Asaph, declared, that "the right contended for by the defendant's counsel, was contrary to what had been ruled by every judge since the time of the Revolution:"—an assertion, however, which we shall presently shew to be incorrect.—[See *the trial of the Dean of St. Asaph*, p. 71].—Lord Mansfield, whose whole soul seemed to be in the question, and whose judicial reputation was unquestionably involved in it, expressly put the vindication of this doctrine upon the ground of "uniform judicial practice since the Revolution;" and the Court, in discharging the rule for a new trial, rested their judgment "on the cases cited by Mr. Justice Buller (viz. Lord Raymond's and C. J. Lee's decisions), and "the uniform *practice* of the Court of King's Bench, for more than a hundred years." [See 3 *Term. Rep.* 428.] That no sound ancient authority could be produced to sanction this "modern practice" is evident; because when these modern decisions had been pressed against Mr. Erskine in argument, he expressly and manfully said, "I deny the authority of these modern cases, *and rely upon the rights of Juries as established by the ancient law and customs of England.*" [See Ersk. *Speeches*, v. 1. p. 260.] And again—"I wish it to be distinctly understood, that I found my motion in opposition to those decisions. It is my duty to speak with deference of all the judgments of this Court, and I feel an unfeigned respect for some of them, because they are your lordships', but comparing them with the judgments of your predecessors for ages, which is the highest test of English law, I must be forgiven if I presume to question their authority."—*Speeches*, v. 1. p. 297.

Mr. Worthington, indeed, with the characteristic indiscretion of an ignorant advocate, pretends to carry the doctrine back to

the earliest records of the law; and, recurring to his "learned dust," and "unopened folios," cites some cases from Dyer and Plowden, which have not the slightest applicability to the question. They are cases which merely decide, what no man denies, that matters of *mere law unmixed with fact*, are to be decided by the judges; but the point in controversy is, whether, in cases of complicated law and fact, the jury have not a right to determine the whole issue. To such a point his cases are wholly inapplicable. There are, however, two cases of some antiquity to which we can refer Mr. Worthington, which are direct authorities in support of his doctrine: whether he was ignorant of their existence, or prudently forebore to cite them as being rather too strong for use, we know not. The first case to which we allude, is that of Udal, a puritanical clergyman, who was tried for seditious words in the reign of queen Elizabeth. This offence, being charged as a capital one by statute, he could not be tried in the Star-chamber, but was turned over to the Court of Queen's-Bench. Udal had written a book called "*A Demonstration of Discipline*," in which he inveighed against the government of bishops. It was pretended that the bishops were part of the queen's political body, and that to speak against them was really to attack her, and was therefore felony by the statute. The counsel who conducted the prosecution told the jury he would prove, 1st, the malicious intention of the prisoner in making this book; 2ndly, that he was the author; and, 3rdly, that the matters contained in the book were felony by the statute. But Judge Clarke thought all this unnecessary, and told the jury they were to inquire only, whether Udal was the author of that book? "all the rest, he said, *is matter of law, and has been already determined before we came here*." Some hearsay evidence was then adduced to prove that Udal had acknowledged himself to be the author, and the judge would not allow the prisoner to contradict this by direct evidence. The Court tendered the prisoner an oath, by which he was required to swear that he was not the author of the book, and his refusal to give that testimony was held to be evidence of his guilt. After much delay, and frequent messages from the judge to the Jury, they were finally prevailed upon to bring in a verdict of *Guilty*. "This, it must be confessed," says Mr. Rous, in an excellent tract on this subject, published in 1771, and republished in 1785, "is a strong authority in favour of this doctrine; though considering the multiplied iniquities of the trial, this decision will scarcely be thought sufficient to establish it." [See Rous's *Letter to the Jurors of Great Britain*, p. 41.] The other case we allude to, and which is, perhaps, even more directly in point, is the cele-

brated trial of Algernon Sydney, for high treason. The defendant said, "They have proved a paper in my study of Caligula and Nero; this is compassing the death of the king, is it?" Lord Chief Justice Jefferies—*magnum et memorabile nomen*—said, "*That,* I shall tell the Jury, *is a point in law,* which (addressing himself to the Jury) *you are to take from the Court, Gentlemen; whether there be fact sufficient, that is your duty.*" [*St. Tr.* v. 3. p. 805.] But, unfortunately for the prevalence of this venerable authority, the legislature thought fit, in the reign of William and Mary, to pass an act of parliament for annulling and making void the attainder of Algernon Sydney, "on account of the judge's *misdirection* to the Jury.*"

This leads us to observe—In truth not one of the judges who have maintained this doctrine has pretended that it was sanctioned either by common or statute law; they have all relied wholly on "the modern *practice* of the Court"—a sandy foundation, we fear, for English security in political cases. It has been well observed by Dr. Towers, that "it would perhaps be as reasonable that kings should be suffered themselves to determine the bounds of their own prerogatives, as that judges should be permitted finally to decide, when that is the point in contest, what is the extent of their own jurisdiction, and what is the extent of that of Juries." [Towers's *Tr.* v. ii. p. 36.] Another obvious, but important, remark on this subject is, the fatal force which English lawyers give to *precedents.* Well might *Junius* say, "one precedent creates another—they soon accumulate and constitute law. What yesterday was *fact,* to day, is *doctrine.*"†

Another proof, and in our judgment not a slight one, of the conscious infirmity of this doctrine, is to be found in the manner in which it was attempted to be introduced. In laying down

* We have seen, by reference to the case of the dean of St. Asaph, lord Mansfield and Mr. Justice Buller fathering this doctrine on lord chief justice Raymond; but this affiliation was not quite fair toward lord chief justice Jefferies, who clearly had a prior title. But it was doubtless thought, that the name of the more ancient authority would not have sounded so well, and it was therefore discreetly passed by. The late Mr. Sheridan, with that felicity of expression which characterized his taunts, once said of sir Edward Law, then Attorney-general, during the discussion of a constitutional question in the House of Commons, that "the honorable and learned gentleman had shewn a very *loyal ignorance* of some of the most important parts of English history." We suppose this *discreet oblivion* constitutes a very important part of professional education and of legal practice.

† In this concise and nervous expression *Junius* seems to have had his eye on a passage in *Tacitus:—Quod hodie exemplis tuemur, mox inter exempla erit.*—Tacit. *Anal. l.* xi. *par.* 8.

doctrines of law, serviceable to the Crown in political cases, the Courts do not usually condescend to solicit the acquiescence of the bar: when, in such cases, their positions are tenable, they are generally imposed with all the weight of official authority, and enforced with the expectation of absolute submission. But when the independent and uncompromising spirit of Mr. Erskine refused to bow down to what he knew to be a judicial usurpation, the *argumentum ad verecundiam* was resorted to: surely, he would not be a solitary example of professional opposition to the bench? "The counsel of defendants (says Mr. Justice Buller, in the case of the Dean of St. Asaph) had *yielded* to the doctrine for twenty-eight years, and it seemed to him that gentlemen ought not to agitate it again." In another part of the same trial, the same judge reproached Mr. Erskine with asserting a doctrine which had been abandoned by Mr. Lee, whom he described as "a warm partizan, and of the same party with Mr. Erskine;" but when the matter afterwards came before the whole Court, Mr. Erskine denied, in the presence of Mr. Lee, that that gentleman had ever maintained, either directly or indirectly, the doctrine imputed to him; and Mr. Lee confirmed that denial by his silence. So also, the same Judge, on the trial of Bate Dudley, for a libel on the duke of Richmond, 22nd June 1780, told Mr. Erskine, that "it seemed strange he should be contesting points which the greatest lawyers in the court *had submitted to* before he was born." But the most singular and bold attempt to prop up this doctrine was made by lord Mansfield in misquoting a political *jeu d' esprit*, in the course of his giving judgment in the case of the bishop of St. Asaph. Referring to a ballad, said to have been written by Mr. Pulteney some years before, on the occasion of an acquittal of the printer of the *Craftsman*, on a charge of libel, and which his lordship denominated "a famous, witty and ingenious ballad," he proceeded:—"Though it is a ballad, I will cite the stanza I remember from it, because it will shew you the idea of the able men in opposition, and the leaders of the popular party in those days. They had not an idea of assuming, that the Jury had a right to determine upon a question of law. The stanza I allude to is this:—

"For Sir Philip * well knows,
That his innuendoes,
Will serve him no longer,
In verse or in prose;
For twelve honest men have decided the cause,
Who are Judges of fact, though not Judges of laws."

* Sir Philip Yorke, then Attorney-general, afterwards lord Hardwicke.

That lord Mansfield, profound as he was in legal disquisition and constitutional learning, should have resorted to a political doggrel, instead of legal authorities, to authenticate a disputed point of law (the discussion of which, by the most eminent men of that time, had occupied the Court for many days) is of itself sufficiently surprising, and shews the distressful want of sound argument and of available authority, to which he was reduced; but what will the reader think of lord Mansfield's fairness when he learns, it will be found, on referring to the publication cited, which appeared in 1754, that the two concluding lines of the citation ought to have been quoted thus:—

> "For twelve honest men *have determin'd the cause,*
> *Who are Judges alike of the facts and the laws.*" *

That lord Mansfield misquoted this passage through defect of memory will scarcely be credited by those who consider the extraordinary perfection in which he possessed that faculty; but the passage itself, from its very nature, was insusceptible of such an accident. The ballad, as produced by his lordship himself, was intended to celebrate a popular triumph over the Crown; but it must be obvious to every one, that it could have been no matter of popular triumph, that a point of political law had been left to the decision of the king's judges.†

We will just observe, *en passant*, if lord Mansfield had considered that the point in question could have been determined by political anecdotes, he might have found an authentic one which would have told directly for the popular side of the argument.

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* Erskine's Speeches, v. i. p. 375, *apud notas.*

† And well might a triumph over such an enemy of the press, as sir Philip Yorke was, be matter of popular exultation. We have seen in a former part of this article, that he confined the right of publishing to matters "which belonged to a man's own trade"—shop-bills, perhaps, though probably not even those, if they professed that the advertiser's goods were better, or cheaper, than those of his neighbour. In the year 1735, while he was chief justice, he endeavoured to fasten another restraint upon the press, by denying truth to be a justification for alleged libel in a civil action. In *Rex* v. *Roberts*, M. T. 3 Geo. II, MSS. [cited 2 Selw. *Nisi Prius*, p. 936], on a motion for an information against the defendant for a libel, lord Hardwicke, chief justice, thus expressed himself:—"It is said, that if an *action* were brought, the fact, if true, might be justified; *but I think this is a mistake. I never heard such a justification in an action for a libel even hinted at: The law is too careful in discountenancing such practices.* All the favour I know that truth affords in such a case is, that it may be shewn in mitigation of damages in an action, and of the fine upon an indictment, or an information." Thank heaven! every legal novice knows, that the law of libel in England, bad as it is, is not quite so bad as this. But the sentiment shewed the man: the spirit was willing, though the judicial power was weak.

There is a medal of the celebrated lieutenant-colonel John Lilborne, representing his effigies with this remarkable inscription: "JOHN LILBORNE, SAVED BY THE POWER OF THE LORD, AND THE INTEGRITY OF HIS JURY, WHO ARE JUDGES OF THE LAW, AS WELL AS FACT. OCT. 26, 1649" [See Evelyn's *Medals*, p. 171]. He likewise published his trial, with a frontispiece containing his portrait, with a label from his mouth, containing a similar inscription. This case of colonel Lilborne is so extraordinary (and, with reference to the point under examination, so satisfactory), that we cannot omit bringing it under the particular notice of the reader. Colonel Lilborne was indicted for high treason. He addressed the jury in the following words:—"My honest jury and fellow citizens, who I declare, by the law of England, are the conservators and sole judges of my life, having inherent in you alone the power of the law as well as fact."* The Jury acquitted him; and they were afterwards most illegally examined by the privy-council concerning their verdict. Their general reply was, "that they had discharged their consciences by their verdict;" and most of them refused to give any other answer; but James Stevens, one of them, stated, that, "the Jury, having weighed all which was said, and conceiving themselves, notwithstanding what was said by the counsel and bench to the contrary, to be judges of law, as well as of fact, they had found the accused 'not guilty.'" Michael Rayner, another juryman, answered nearly to the same effect. Gilbert Gayne, another of the Jury, said, that "the Jury did find as they did, because they took themselves to be judges of the law as well as of the fact, and that although the Court did declare they were judges of the fact only, *yet the Jury were otherwise persuaded from what they learned out of the law books.*" [See *St.*

* Colonel Lilborne addressed the judges thus:—"You judges, that sit there, are no more, if the Jury please, but cyphers, to pronounce the sentence, or their clerk, to say *Amen*, to them, being at best, in your origin, but the Norman Conqueror's intruders." [See *St. Tr. in loco citato*]. We quote this, not in admiration of the decency or decorum of its language, but to remind the reader of its singular coincidence with a celebrated modern address. In the defence of an action brought by Mr. Fox against Mr. John Horne Tooke, tried 30th April, 1792, the defendant said to the Jury, "There are only three efficient and necessary parties—Mr. Fox the plaintiff, myself the defendant, and you, gentlemen, the Jury. The judge and the crier of the court attend alike in their respective situations, and they are paid by us for their attendance; we pay them well; they are hired to be the assistants and reporters, but they are not, and they never were intended to be, the controllers of our conduct: for the whole of this business is comprised in Mr. Fox's action, in my defence, and in your verdict."—*Trial*, p. 4.

Tr. vol. ii. p. 81, 82, 3rd ed.] And yet lord Mansfield would have had the world believe, on the authority of his misquoted ballad, that such an assumption was before unheard of.

But to return. This doctrine, founded, as it is professed to be, on mere *judicial practice*, has not even the frail support—frail, when unsanctioned by constitutional law—of judicial *unanimity*. We mean even as respects trials for libel; for to other criminal cases it has not been attempted to be applied, except in one or two flagrant instances, which have been expressly, and with merited reprobation, reversed and set aside.

Passing over, for the present, the invaluable case of Bushell, as not being strictly a case of libel, and which, therefore, we shall refer to that head of our investigation which will treat of criminal charges generally, we will begin with the great leading case of the Seven Bishops who were tried on a charge of libel in the reign of James II. We shall see that even in that case, tyrannical as were the times in which it occurred, and infamous as were the judges who presided on that occasion,* those judges did not, and dared not, attempt to withhold from the Jury the consideration of the whole issue. To which remark we shall add the emphatic exclamation of lord Camden in the House of Lords during the discussion of Mr. Fox's libel act—"*What would not the judges of king James II have given for this doctrine!* It would have served," he adds, "as an admirable footstool for tyranny!"

In the case of the Seven Bishops [*St. Tr.* vol. v. p. 542], the Attorney-general peremptorily told the Jury that they had nothing to do but with the bare fact of the publication; and said that he should make no answer, therefore, to the arguments of the bishops' counsel, as to whether the petition was or was not a libel. But chief Justice Wright (no friend to the liberty of the subject) as Mr. Erskine truly observed, in his argument in the Dean of St. Asaph's case [Ersk. *Sp.* vol. i. p. 205]. interrupted him, and said, "Yes, Mr. Attorney; I will tell you what they offer, *and which it will lie upon you to answer:* they would have you show the jury how this petition has disturbed the government, or diminished the king's authority." And in his charge to the Jury, he assigned to them reasons to induce them to concur with him in concluding that the paper was a libel. Mr. Justice Powell said to the Jury, "I have given my opinion (that it was a libel), *but the whole matter is before you,*

* In *Rex* v. *Wilkes*, 2 Wils. 159, lord chief justice Pratt declared from the bench, that "judge Powell was the only honest man of the four judges who presided at this trial."

Gentlemen, and I leave the issue of it to God and your own consciences." Mr. Justice Holloway, addressing himself to the Jury, said, "If you are satisfied there was an ill intention of sedition or the like, you ought to find them guilty; but if there be nothing in the case that you find, but only that they did deliver a petition, &c., I cannot think it is a libel. *It is left to* YOU, *gentlemen*, but that is my opinion." Even Mr. Justice Allybane, who insisted that no man could be allowed to write at all concerning government without leave from the government, although he declared his opinion that the writing was a libel, yet *he* did not attempt to withhold the consideration of that question from the Jury.

In like manner, upon the trial of Nathaniel Thompson and others, for composing and publishing libellous remarks upon the administration of justice, the chief justice (sir Francis Pemberton) concluded his observations to the Jury by saying, "Gentlemen, I leave it to you whether upon this evidence you do not believe them all to be guilty of this design of traducing the justice of the nation."—*Rex* v. *Thompson, St. Tr.* vol. iii. p. 37.

So on the trial of John Tutchin for a libel in the year 1704 [*St. Tr.* vol. v. p. 546], chief justice Holt, in his charge to the Jury, after reciting some passages from the alleged libel, says, "You are to consider whether the words I have read to you do not tend to beget an ill opinion of the administration of the government;" thereby plainly leaving the libellous or innocent quality of the publication to the finding of the Jury.

In the case of *Rex* v. *Horne* [Cowp. *Rep.* p. 680] lord Mansfield himself, in a manner singularly inconsistent with his other charges in cases of libel, expressly left the whole issue to the Jury. The publication being admitted by the defendant, his lordship said to the Jury, "Why then there remains nothing more, *but that which the reading of the paper must enable you to form a judgment upon* * * * When you read that, *you will form your own conclusions yourselves.*"

Lord Kenyon also, with similar inconsistency, in the case of *Rex* v. *Stockdale*, A. D. 1789, told the Jury, "In order to see what is the sense to be fairly imputed to those parts that are culled out as the offensive passages, you have a right to look at all the context; you have a right to look at the whole book; and if you find it has been garbled, and that the passages selected by the attorney-general do not bear the sense imputed to them, the man has a right to be acquitted." This was clearly leaving the whole issue, involving the question whether the publication was libellous or not, to the finding of the Jury,

In another case, *Rex* v. *Hart*, tried before Mr. Justice Clive, at the summer assizes at Nottingham, A. D. 1762, reported by Burn, in his *Ecclesiastical Law*, vol. ii. p. 188, the Judge at *Nisi Prius* having restrained the defendant's counsel from arguing that the paper in question was no libel, upon the ground that "such a question was more proper to be determined by the Court above," the defendant was found guilty; but, on a motion for a new trial in Michaelmas term following, the Court of King's Bench set aside the verdict as illegal, and ordered a new trial. In this case we see that all the judges of the King's Bench determined that the question—libel or no libel?—was a proper question to be argued before the Jury.

In point of *fact*, this question is always argued before the jury. The counsel for the prosecution does not confine himself to the mere question, whether the book was published or not? but enlarges, sometimes in very long and laboured speeches, on the imputed *criminality* of the writing; the defendant's counsel, generally admitting the publication, insists on the *innocence* of the matter published; and the judge afterwards taking up those topics, discusses them in his turn. In addition to all this, the Jury have an admitted and unquestionable right to have the book or paper charged to be libellous delivered to them, that by a perusal and consideration of the whole of it, they may judge of its import, tendency, and character. And yet it is pretended, that the defendant's criminality is not to be inquired after by the Jury; or, in the memorable words of lord Raymond [*Rex* v. *Franklin, St. Tr.* vol. ix. p. 255,] the criminality is for the Court upon the record, and it is "*a question with which the Jury have nothing to do!*"—that Jury who are required to say, on their oaths, whether the defendant be *guilty*, or *not guilty!* We shall conclude this topic with Mr. Fox's remarks upon it, during the discussion of his Libel act: "This part of the noble lord's (lord Mansfield's) doctrine appeared strange and unaccountable. It was admitted that the parties had a right to bring the whole matter before the Jury. Now, on what principle, he asked, were the Jury to look at the whole, but that they might know whether the paper was libellous or not? If the Jury had nothing to do with the guilt or innocence of the paper, but were only to give a verdict on the publication, it would be perfectly idle and ridiculous to lay the whole evidence before them."—Fox's *Speeches*, vol. iv. p. 258.

Numerous other cases might be adduced to prove the judicial inconsistency in which this doctrine has involved its promulgators; but those which we have cited are sufficient for the purpose. "Here we have," to Mr. Erskine

[Ersk. *Sp.* vol. i. p. 351] "the court of King's Bench against the court of King's Bench; chief justice Wright against chief justice Lee; lord Holt against lord Raymond;" to which we will add, on the authority of the additional cases referred to by us, lord Kenyon against lord Kenyon, and lord Mansfield against lord Mansfield.

We now turn to the consideration of the question, as it respects criminal cases in general.

So far is it from being true, as is intimated by Mr. Worthington, and some others of those who argue on his side of the question, that Juries, in the early times of their institution, had no right to give a general verdict, comprehending both the law and the fact, "and never thought of doing so," that the very reverse of this position is the fact. The truth is, that, in former times, the judges frequently compelled Juries to find the law as well as the fact, in cases where they were inclined to limit their finding to the fact only. It appears clearly from Bracton [*Bract.* 185, *b.* 186, *b.*], that Juries had a right to deliver a general verdict, finding both the law and the fact; and the Statute-book, in addition to other records of legal history, informs us that the judges were accustomed to compel jurors to bring in a general verdict, finding both law and fact, even in cases wherein they wished to deliver a special verdict. To remedy this oppression, the statute 13th Edward I, c. 30, was passed, by sec. 2 of which, it is enacted and ordained, that "the justices assigned to take assizes shall not compel the Jurors to say precisely whether it be disseizin, or not; so that they do show the truth of the deed, *and require aid of the Justices;* but if they of their own head will say that it is disseizin, their verdict shall be admitted at their own peril." Now, disseizin being "an *unlawful* dispossessing a man of his land, tenement, or other immoveable or incorporeal right" [Blount's *Dict. in voce*] when the Jury determined that question wholly, they clearly determined both law and fact. Littleton, who wrote in the reign of Edw. IV, says, evidently alluding to this statute, "If the inquest will take upon themselves the knowledge of the law, they may give their verdict generally" [Litt. *Ten. s.* 368]. Lord Coke, commenting on this passage, concurs with it, though he advises a special verdict in cases of doubtful law, as "safer" for the Jury, with reference to the penalties of an attaint [*Co. Litt.* 228]. But as no attaint would lie, at the instance of the King Vaugh. *Rep.* 135.—[*Rex* v. *Dean of St. Asaph*], this cautionary recommendation is inapplicable to criminal cases. The same learned and authoritative writer also says, in express terms, that this right of finding either a special or a general verdict extends

alike to civil and to criminal cases [*Co. Litt.* 226, b. 227]. And in another place he states this statute to be in affirmance of the Common Law [2 *Inst.* 25]. Mr. Worthington endeavours to explain away this conclusive authority by stating [p. 132] that "Littleton introduced this passage into his book of tenures in explaining the pleadings in *real* actions, relative to estates upon condition." Be it so; but how does the occasion of its introduction affect the authority of the doctrine? Littleton, whose authority is unquestionable, states in express terms, that the Jury may find both the law and the fact: now in what page of his book that doctrine is to be read, seems to us to be as unimportant, as whether the book be bound in calf-skin, or in Russia leather. Lord Coke adopts the doctrine, and affirms it to be law not merely by statute, but also by common law. But, when Mr. Worthington endeavoured to confine this doctrine to the pleadings in real actions, was he really ignorant that Lord Coke, in the place we have above cited, expressly states, that the doctrine is applicable "to all cases of common pleas, as also to pleas of the Crown?" If he knew this, he attempted to mislead his reader: if he did not know it, he was reproachfully ignorant of the question he undertook. The author of *Trials per Pais* also cites this passage of Littleton to prove (what, he adds, "daily experience tells us") that the Jury may decide both the law and the fact.—*Trials per Pais*, p. 230.

Mr. Wynne, the learned author of *Eunomus*, is likewise sadly embarrassed with these authorities. "Littleton (he says) and his great commentator have been made advocates on this occasion: they have been *thought* to say, that Jurors are judges of the law as well as [of] the fact." [*Eun. Dial.* 3. *s.* 53.]—No: not "*thought*," but *proved* to have said so, and that not ambiguously or doubtfully, but expressly, and with reference to authorities. Mr. Hargrave, though no friend to the doctrine, treats the matter with that manly fairness which characterizes all his writings. Annotating on this passage, he candidly admits, that "the Jury may, as often as they think fit, find a general verdict; I therefore think it (he adds) *unquestionable* that they may so far decide upon the law as well as fact, such a verdict necessarily involving both. In this (he proceeds), I have the authority of Littleton himself," for which he refers to the passage above cited, and he concludes, by recommending Juries, as this right is only incidental to the complication of law and fact, "to show the most respectful deference to the advice and recommendation of judges." [1 *Inst.* 155. *b. w* (5).] From this recommendation no reasonable man will dissent; it is, indeed, nothing more than the statute of Westminster, before cited, suggests, viz. "requiring

the aid of the justices;" but Mr. Worthington, as we have already seen, spurns this deference, and insists upon the Judges' right to dictate the verdict; he contends, that the duty of the Jury towards the judge, is not "deference," but "obedience."

These authorities sufficiently establish that Juries *originally* had the right now contended for, and the soundest constitutional lawyers have constantly recognized it. Indeed it is a truth which forces itself so unconsciously upon the mind, that its doctrinal acknowledgment may be found not only in legal writers, whose principles are constitutional and liberal, but in authors whose evident inclination is towards arbitrary power. A few authorities may be mentioned to show that this doctrine is not confined to ancient authors.—Sir Matthew Hale says expressly, that "it would be the most unhappy case that could be to the judge, if he must take upon himself the guilt or innocence of the accused;" and adds, that, "if the Judge's opinion is to rule the verdict, the trial by Jury would be useless." [Hale's *Pl. Cr.* v. i. p. 313.] In another place he says, still more explicitly, "The Jury may find a special verdict, or may find the defendant guilty of part, and not guilty of the rest, or may find the defendant guilty of the fact, but vary in the manner" (*i. e.* in the legal result). "If a man be indicted of burglary, *quod felonicè et burglariter cepit et asportavit*, the Jury may find him guilty of the single felony, and acquit him of the burglary and the *burglariter*. So if a man be indicted of robbery, with putting the party in fear, the Jury may find him guilty of the felony, but not of the robbery. The like where the indictment is *clam et secrete a personâ*" [*Hale's Pl. Cr.* v. ii. p. 301]. So again, "In an indictment for murder, suppose the prisoner killed the party, but yet in such a way as makes it no felony, as if he were of non-sane memory; or if a man kills a thief that comes to rob him, or to commit a burglary; or if an officer, in his own defence, kills one that assaults him in the execution of his office; whether is it necessary to find the special matter, or may the party be found not guilty? I think so; and so I have known it constantly practised: the party in these cases, may be found not guilty, and the Jury need not find the special matter" [Hale's *Pl. Cr.* v. ii. p. 303]. Now, as the author of *Trials per Pais* says, in the place before cited, the right to bring in a general or a special verdict, as the Jury choose, "is a plain proof that the Jury are judges of the law as well as fact; for leaving the judgment of the law to the Court (in a special manner) implies that, if they pleased, they had the power of judgment in themselves."

In like manner chief justice Holt held, that, "In all cases, and in all actions, the Jury may give a general or special verdict,

as well in causes criminal as civil, and the Court ought to receive it, if pertinent to the matter in issue; for if the Jury doubt, they may refer themselves to the Court, *but are not bound to do so.*"—Salk. *Rep.* v. iii. p. 373.

So also on the trial of col. Cosmo Gordon, at the Old Bailey, London, A. D., 1784, for the murder of General Thomas in a duel, Mr. Justice Eyre stated to the Jury—"Gentlemen, I am bound to declare to you what the law is, as applied to this case, in all the different views in which it can be considered by you upon the evidence. *Of this law and of the facts,* AS YOU SHALL FIND THEM, *your verdict must be compounded.*"

The authority of Blackstone, also (an author by no means disposed to enlarge popular rights), is quite express on this point. In one place he declares, that, "Jurymen have *a right to decide* questions of nice importance, in the solution of which *some legal skill is requisite,* especially where the law and the fact, as often happens, are intimately blended together. And (he adds, by way of inducing laymen to acquire some knowledge of law) their general incapacity to do this with any tolerable propriety has greatly debased their authority, and has unavoidably thrown more power into the hands of the judges, to direct, control, and even reverse, their verdicts, than perhaps the constitution intended" [Bl. *Comm.* v. i. p. 8.]. In another place he says, "The Jury may, if they think proper, take upon themselves to determine at their own hazard, *the complicated question of fact and law;* and without either special verdict or special case, may find a verdict absolutely either for the plaintiff or defendant." [Bl. *Comm.* v. iii. p. 378.] Again he says, "If the Jury doubt the matter of law, and therefore choose to leave it to the determination of the Court, they may bring in a special verdict, though they have an unquestionable right of determining upon all the circumstances of the case, and finding a general verdict, if they think proper."—Bl. *Comm.* v. iv. p. 361.

But not only has this right been conceded to Juries theoretically and in the way of doctrine, it has been actually exercised, and is now almost constantly exercised by them in various cases. It is on political occasions only that they are denied its use. For example, the question "manor, or no manor," is quite as much, indeed more, a question of law, as that of "libel, or no libel;" and yet the former is fearlessly left to the Jury. [*Plowd.* 712, pl. 1.] We may advert also to a very strong case cited by the author of *Trials per Pais.* "In the case of Manby *v.* Scott, T. T. 13 Car. II, B. R. one question was, if the verdict was well found, in an action on the case against a husband for wares bought by the wife; the verdict findir 'he wares

were necessaries, and according to her degree. It was objected that they ought to have found the degree of the party, and the value of the wares, and have left it to the Court to judge. But it was answered and resolved that the Court (*i. e.* the judge presiding at the trial) informs the Jury of the matter of law, and they find it accordingly; and so it belongs not to this Court." [*Tr. per Pais*, 230.] So in all cases alleged to have been committed against an act of parliament, the Jury are required to find, whether the defendant did the act imputed to him "against the form of the statute;" and which finding necessarily includes an interpretation of the statute. It is manifestly absurd (as Mr. Starkie observes, *Starkie on Libel*, p. 11.) to maintain that in such cases the Jury have no right to decide upon the matter of law; for nothing can be more clearly matter of law, than the construction of an act of parliament. Very many other cases might be stated in illustration of this topic; but one or two more will suffice. Take, for example, cases of ejectment, in which complicated matters of law and fact, constituting the title in question between the parties, are decided by the Jury, assisted, no doubt, by the presiding Judge, but still themselves determining the cause by their verdict. Look also to the issues which are constantly sent from the court of Chancery to a Jury, to try the validity of a will, or the validity of a commission of bankrupt, &c., questions which necessarily involve both law and fact, and of which combined the verdict is compounded. So in criminal cases—a charge of murder, for instance—whether the circumstances of the case amount legally to murder, or to manslaughter, or to chance-medley, or to justifiable homicide—all questions of combined law and fact, and which we have before seen are acknowledged in theory to belong to the Jury—are points always left in actual practice to the determination of the Jury. So, in charges of house-breaking, it is always left to the Jury to find whether the entry was burglarious, or not. And in cases of theft, the legal character of the act is always left to the finding of the Jury, who declare by their verdict, whether the offence amounts to a capital felony, or not. Indeed the Libel Act [32 Geo. III, c. 60], to which we shall hereafter have occasion to refer more particularly, at the same time that it declares the Jury to be entitled to decide the whole issue, law and fact, in cases of libel, expressly declares also, that that is the law in all other criminal trials.

It is but fair, however, to acknowledge, that there is one case to be found in which this right to decide the whole issue in criminal cases was denied to a Jury, and they were punished

for exercising it contrary to the judicial denial. That the author of this atrocity may have the matter stated unexceptionally, it shall be given in his own words. The case is reported by chief justice Kelyng in his own *Reports*, p. 50, as follows:—

"*Memorandum.*—At Lent circuit, at Winchester, 18 Car. II, one Henry Hood was indicted for the murder of John Newen; and, upon the evidence, it appeared that he killed him without any provocation, and thereupon I directed the jury, that it was murder; and I told them, they were judges of the matter of fact; viz. whether Newen died by the hand of Hood; but whether it was murder or manslaughter, that was matter of law, in which they were to observe the direction of the Court: but, notwithstanding, they would find it only manslaughter; whereupon I took the verdict, and fined the Jury, of whom John Goldwier was the foreman, 5*l.* apiece, and committed them to gaol till they found sureties to appear at the next assizes, and in the mean time to be of good behaviour; but after, upon the petition of the jurors, I took their fines at 40*s.* apiece, which they all paid, and entered into recognizances."

This, it must be admitted, was a bold attempt to establish the doctrine, that Juries are to confine their functions to matters of fact. Whether Mr. Worthington omitted to cite this case, so directly in point for him, through ignorance of its existence, or through a discreet misgiving as to the soundness of its law, we know not; but we shall refer him to the Journals of the House of Commons for a comment on it.

"*Die Mercurii,* 11 *Decembris,* 1667.

"The House resumed the hearing of the rest of the report, touching the matter of restraint upon Juries, and upon the examination of divers witnesses in several cases of restraint put upon Juries by the Lord C. J. Kelyng, thereupon resolved as followeth:—

"1st, That the proceedings of the said Lord Chief Justice are innovations in the trial of men for their lives and liberties; and that he hath used an arbitrary and illegal power, which is of dangerous consequences to the lives and liberties of the people of England, and tends to the introducing of an arbitrary government.

"2nd, That, in the place of judicature, the Lord Chief Justice hath undervalued, vilified, and condemned, *Magna Charta,* the great preserver of our lives, freedom, and property.

"3rd, That he be brought to trial, in order to condign punishment, in such manner as the House shall judge most fit and requisite."—See *Com. Journ.* v. 9. p. 35—37

In consequence of these Resolutions, he was apprehended, and committed to prison; but, unfortunately for the cause of public justice, he, like Jeffreys, escaped "condign punishment," by dying in prison before he could be brought to trial.

But the great and unanswerable case, which is absolutely decisive of the general question, is that of Bushell, reported by C. J. Sir John Vaughan.

"At the Sessions in London, September 1670, Penn and Mead, two Quakers, were indicted for tumultuously assembling with a great many others, in Gracechurch Street, *vi et armis*, to disturb the peace; and that the said Penn did then and there preach to the said Mead and others, in the open street. The prisoners pleaded, Not Guilty. It was proved, that there was a meeting, at the time stated in the indictment, in Gracechurch Street, of three hundred people in the open street; that Penn was speaking, or preaching, to them; but what he said, the witnesses, who were officers and soldiers sent to disperse the assembly, could not hear." This was the evidence, and the Recorder, sir John Howell, charged the Jury in these words.—"Gentlemen, you have heard what the indictment is; it is for preaching to the people in the street, and drawing a tumultuous company after them, and Mr. Penn was speaking. If they should not be disturbed, you see they will go on. There are three or four witnesses who have proved this—that he did preach there, and that Mead did allow of it.* After this you have heard by subsequent witnesses what is said against them. *Now you are upon the matter of fact, which you are to keep to, and observe, at your peril.*" The Jury having retired and deliberated some time on their verdict returned it in these words:—"Guilty of speaking in Gracechurch Street." The Court told them, "they had as good say nothing;" adding this inquiry, "Was it an unlawful assembly?"† and, on the Jury declaring,

* It is impossible not to admire the adroitness with which Mead defeated the insidious conduct of the Recorder, and turned the maxims of his own profession against him. The case being likely to fail against Mead, for want of evidence, the Recorder put this artful question to him:—"What say you, Mr. Mead, were you there?" He, without hesitation, made the following reproachful and apposite answer:—"It is a maxim of thine own law, *Nemo tenetur seipsum accusare*, which, if it be not true Latin, I am sure it is true English, that no man is bound to accuse himself. And why dost thou try to ensnare me with such a question? Does not this show thy malice? Is it like unto a judge, that ought to be of counsel for the prisoner at the bar?"

† This case strongly illustrates the inconsistency and absurdity of the doctrine in question. The very Court which told the Jury, that their functions were confined to "the matter of fact," and denied them the cognizance of the law, refused to record a verdict which found the fact only, and expressly inquired of the Jury, "was it an *unlawful* assembly?"

that they did not find it an unlawful assembly, they were sent back to reconsider their verdict, and they afterwards returned the following verdict in writing, signed by all:—" We do find William Penn to be guilty of speaking or preaching to an assembly in Gracechurch-street, on the 14th day of August, 1670, and William Mead not guilty of the said indictment." The Court refused to receive this verdict, and after reviling William Bushell, one of the Jury, as " a factious and impudent fellow," they again sent back the Jury to reconsider their verdict, and for that purpose adjourned the court till the next day (Sunday); but the Jury then persisting in their verdict, the court was further adjourned until Monday morning, when the Jury brought in a general verdict *not guilty*, as to both the prisoners. This verdict was recorded accordingly; but the Court immediately fined each of the Jury forty marks, and sentenced them to be imprisoned until payment.

Bushell sued out a writ of *habeas corpus*, in the court of Common Pleas, on behalf of himself and his fellow Jurymen. The sheriffs in their return assigned many causes for the detention of the Jury, but the only one material to our present purpose was, that the Jury had acquitted Penn and Mead, against the direction of the Court in matter of law of and upon the premises to the said Jurors against the said William Penn and William Mead openly in court given and declared.* The validity of this return came on afterwards to be argued in the court of Common Pleas, when the chief justice, sir John Vaughan, delivered the decision of the Court in a very elaborate judgment. After noticing several other matters in the return, not material to the point before us, he proceeds thus: " We come now to the next part of the return, viz. that the Jury did acquit those indicted against the direction of the Court in matter of law openly given and delivered to them in court.

" The words 'that the Jury did acquit against the direction of the Court in matter of law,' literally taken and *de plano*, are insignificant and not intelligible; for no issue can be joined of matter in law; no Jury can be charged with the tryal of matter of law *barely;* no evidence ever was or can be given to a Jury of what is law or not; nor no such oath can be given to or taken by a Jury, to try matter in law; nor no attaint can lie for

* *Contra directionem curiæ in materiâ legis, hic de et super præmissis eisdem juratoribus versus præfatos Penn et Mead in curiâ hic apertè datam et declaratam de præmissis iis impositis in indictamento prædicto acquietaverunt; in contemptum Domini Regis nunc, et legum suarum, et ad magnum impedimentum et obstructionem justiciæ, necnon ad malum exemplum omnium aliorum juratorum in consimili casu delinquentium.*

such a false oath: therefore we must take off the veil and colour of words which make a show of being something, and in truth are nothing. If the meaning of the words 'finding against the direction of the court in matter of law' be, that if the judge, having heard the evidence given in court, shall tell the Jury, upon this evidence the law is for the plaintiff, or for the defendant; and you are, under the pain of fine and imprisonment, to find accordingly; and the Jury ought of duty to do so; every body sees that the Jury is but a troublesome delay, great charge, and of no use in determining right and wrong, and the trials by them may be better abolished than continued; which were a strange new-found conclusion, after a tryal so celebrated for many hundreds of years.

"But if the Jury be not obliged in all tryals to follow such directions, if given, but only in some sort of tryals, as, for instance, in tryals for criminal matters upon indictments or appeals, why then the consequence will be, though not in all, yet in criminal cases, the Jury, as of no particular use, ought to be either omitted or abolished, which were a greater mischief to the people than to abolish them in civil tryals." And after stating that the imputation of finding against the direction of the court in matter of law is "not conceptible," and declaring that "they may legally vary from it, if they find cause, and are not thereby concluded," he reports, that the judges were all of opinion, that the return in this part of it, as in the others, was wholly insufficient.

In the course of his judgment, the learned judge gives a very plain and satisfactory exposition of the maxim so often pressed against the popular side of this argument—*ad quæstionem juris non respondent Juratores, ad quæstionem facti non respondent Judices.* This, he very properly remarks, relates to questions of *mere law*, or *mere fact*, but not to questions of mixed law and fact: "the Jury," he concludes, "cannot answer of the law *de plano*, but they may and do answer of the law and fact *complicately*."

"But," he adds, "that this question may not hereafter revive, if possible, it is evident from the resolution of all the judges, that," &c. [he then proceeds to show, from decided legal authorities, that a Jury cannot be lawfully fined or imprisoned by a judge, for a finding contrary to his direction, and he continues] "To what end is it that so many qualifications are required in Jurymen, and so many precautions and formalities observed in their appointment"—the particulars of which he specifies at length—"if after all this they must implicitly give a verdict by the dictates and authority of another man,

under pain of fine and imprisonment, *when sworn to do it according to the best of their own knowledge?* A man cannot see by another's eye, nor hear by another's ear; no more can a man conclude or infer the thing to be resolved by another's understanding or reasoning; *and though the verdict be right a Jury gives, yet they, not being assured of it by their own understanding, are forsworn, at least in foro conscientiæ.*"—See Vaugh. *Rep.* p. 135, *et seq.*

It will scarcely be credited that Mr. Worthington has the assurance to cite this case as a direct authority to prove that the Jury are bound in all cases to obey the direction of the Court, and cannot include matter of law in their finding [See p. 124.] Of course he omits the passages we have quoted from that decision.* Another imposition he attempts to put upon the reader is evidenced by his referring to Freeman's Reports for the report of this case. In those reports the decision is stated thus: "Vaughan delivered the opinion of the greatest part of (he should have stated of all) the judges, that the prisoners ought to be discharged. The reason given *(ut audivi)* was, because the Jury may know that of their own knowledge, which ought to guide them to give their verdict contrary to the sense of the Court" [See 1 Freem. *Rep.* p. 1]. Now, whatever might have been Freeman's want of informa-

* This unfairness pervades Mr. Worthington's book. We could multiply examples, but have room for one more only. From the manner in which he refers to Dr. Pettingall's book on Juries, and commends his "learning and ingenuity," the unsuspecting reader might be led to infer, that that writer supported Mr. Worthington's doctrine; but the fact is just the reverse. After contending, that the Δικαστας of the Greeks, and the *judices* of the Romans, were not, as is commonly supposed, judges of the bench, presiding over the trial, but sustained a character analogous to that of our Jury—"a body of men provided by the state to inquire into the rectitude or obliquity of an action, and to make their report of acquittal or punishment" [*Pref.* xii. xiv.]. And after proving incontestibly, that they were judges both of law and of fact, he refers to our own law-books, and reasoning from the doctrines found in them, and from the nature of special verdicts, he insists that English Juries have a right to decide complicated questions of law and fact. He proceeds—"this, beyond all doubt, is right and just; for how can a Jury declare *guilty* or *not guilty*, unless they compare the law with the fact, and thereby judge how far the fact comes within the penalty annexed to the breach of the law? And how can they *compare*, without being judges of one as well as of the other? But, notwithstanding, this doctrine of their not being judges of law, broached in bad times, and designed for the worst purposes, long prevailed in Westminster Hall" [Pettingall's *Inq.* p. 121, 122]. It is thus Mr. Worthington conducts his "inquiry:" he seems to resort to his "learned dust" for no other purpose than to endeavour to throw dust into the eyes of his readers.

tion, Mr. Worthington knew perfectly well, from Vaughan's own report of the case, that that was not the ground of the decision. But in order to avoid the effect of this case, he affects to treat it as one in his favour, on the authority of an *ut audivi* report, published more than half a century after the decision, in opposition to the report of the judge who delivered the judgment of the court. Besides, Mr. Worthington either knows or ought to know, the comparative worth of these Reports. Vaughan's Reports were published, as the *imprimatur* prefixed to them shews, with the approbation of the lord chancellor and of all the twelve judges; and their worth has been judicially recognized in modern times [See Raym. *Rep.* vol. i. p. 469]; but Freeman's Reports, having been stolen by a servant, were published without authority, after the author's death.—See *Burn* v. *Burn*, 3 *Ves. Jur.* 580.

But it really appears to us, that the right of the Jury, in criminal cases, to decide, as a mixed question, the law as well as the fact, is proved incontestibly by the circumstances, that their verdict cannot be set aside, and that they are wholly dispunishable. The former position is unquestionable, and requires no authority to support it: the latter also is now equally indisputable. "There is no case in all the law," says chief justice Vaughan, in Bushell's case, "of an attaint for the king, nor any opinion but that of Thyrning's, [10 Hen. IV. *title* Attaint, 60 and 64], and for which there is no warrant in law." And when Mr. Erskine quoted this doctrine in the case of *Rex* v. *the Dean of St. Asaph*, and was proceeding to argue upon it, lord Mansfield interposed, and said, "to be sure; that is so." Now we think, with chief justice Vaughan, that this is absolutely conclusive as to the Jury's right.*

* As all our readers may not be aware of the dreadful nature of the judgment of attaint, we shall shortly state its particulars. They were originally, 1st. That the Jury shall lose their *liberam legem* for ever; that is, they shall be so infamous as never to be received as witnesses, nor be of any Jury 2nd. That they shall forfeit all their goods and chattels. 3rd. That their lands and tenements shall be taken into the king's hands. 4th. That their wives and children shall be thrown out of doors. 5th. That their houses shall be razed and thrown down. 6th. That their trees shall be rooted up. 7th. That their meadows shall be ploughed up. 8th. That their bodies shall be thrown into gaol, and the party shall be restored to all he hath lost by their verdict. Lord Coke's comment on this outrageous punishment is—"The severity of the punishment is to this end, *ut pœna ad paucos, metus ad omnes perveniat*" And he adds, "*prudent* antiquity inflicted this severe punishment, seeing that all trials depend on the oaths of twelve men." This punishment was somewhat mitigated by the statute 23 Henry VIII, c. 3, in cases where the attaint

We have seen that, in the origin of this contest, it was boldly maintained, that Juries had nothing whatever to do with the law in any case; but when it was found that the power of Juries to return general verdicts, and thereby to take the whole issue into their consideration, was becoming too strong to be resisted, a most jesuitical, but unfounded, distinction was set up between their *power* and their right to do so. Mr. Justice Ashurst illustrated this very prettily. Speaking of their right and power in this respect, he observed, that "a highwayman has the *power* to rob you, though the deed be a crime against both divine and human laws." This is a fine specimen of those bold official sophisms which are occasionally delivered forth to serve political purposes; but it is the most flimsy of flimsy fallacies, arising from the intentional confusion of terms. The power contended for on the part of Juries is a *lawful power*:—now lawful power and lawful right are convertible terms. Mr. Justice Ashurst's highwayman had the *physical*, but not the *legal*, power to rob; if he had had the legal, he would have had a rightful power. It may, perhaps, appear like affectation to refer to Jurists upon so plain a point, but a reference to *Grotius* [b. 1, c. 1, s. 4] and *Puffendorf* [b. 1, c. 6, s. 15] will show that, in the opinion of those writers, *jus* and *potentia* are synonymous. To the same effect also we may refer to *Burlamquie's* book [part 1, c. 10, s. 6, and part 2, c. 4, s. 23]. But the case of *Rex* v. *the Dean of St. Asaph*, so often referred to, gave rise to a most triumphant answer to this insidious distinction. Mr. Bearcroft, one of the counsel for the prosecution, having admitted in argument the *right* of the Jury to judge of the whole charge, lord Mansfield, ever eager to limit the jurisdiction of Juries, interrupted him by saying, he supposed Mr. Bearcroft meant the *power*—not the *right*. But instantly rejecting the distinction, that gentleman answered, "I did *not* mean merely to acknowledge that the Jury have the power, for their power no body ever doubted; and if a judge were to tell them they had it not, they would only have to laugh at him, and convince him of his error, by finding a general verdict,

was grounded on that statute; but it was left quite unmitigated if the party brought his writ, as he might at his option do, at the common law, and not under the statute.

To the honour of Mr. Peel, and the credit of the nation, this barbarous law is now repealed by the statute 6 George IV. c. 50, s. 60. The last lawyer who referred practically to this writ was the late lord Ellenborough. When he was attorney-general, he intimated, in the course of a forensic argument, that "Juries would do well to remember, that the law of attaint, though obsolete, was not abolished." Thank God, no English barrister can now put forth such an intimidation.

which must be recorded. I meant, therefore, to consider it as a *right*—as an important privilege, of great value to the constitution."—See *Trial of Stockdale*, p. 124.

Mr. Capel Lloft, however, has stated this point so logically and philosophically, that we cannot refrain from adding his statement, even at the hazard of incurring the imputation of accumulating unnecessary proofs. He says, in an essay intituled "Considerations on Libel, suggested by Mr. Fox's Notice of Motion" p. 8—"It is pretended, that a complete uncontrollable *power* can exist in the Jury without the *right*. In the constitutions of civil government, [legal] *power* and [legal] *right* are, and must be, convertible terms. Civil power and civil right are the mere creatures of the law, and know no other limits than [what] the law imposes on them. The law speaks the language of *prohibition*—not of *admonition*. What it *permits* to be done *uncensured*, and *confirms* when it is *done*, it has delegated the power to do; and the exercise of that power is of *right*."

We have shown, that the doctrine contended for by the writer before us, is unsanctioned by ancient law or ancient practice; and that even during the period of its modern usurpation, it has not had the uniform support of judicial authority, but has been opposed in theory by some of the most upright and enlightened Judges, and been defeated in practice by the constitutional resistance of Juries. We have also proved, that the opposite doctrine has the sanction of ancient law and ancient practice. It will be found also to be supported by the soundest constitutional principles, and the plainest dictates of reason. "I desire," says Swift, "no better proof that a doctrine must be false, than to find it accompanied by great absurdities." Now, it will be seen on examination, that the doctrine we impugn is attended with monstrous absurdities.

The Jury are to pronounce upon their oaths, whether the defendant is guilty or not guilty; but the law, we are told, confines their view to the fact done, and will not allow them to investigate its innocent or criminal character; they are to find the defendant guilty or not guilty, but an examination of the guilt or innocence of the act done is not to be allowed to them. Pharaoh's task-masters required the Hebrew bondsmen to make bricks, while they refused the necessary means of straw: the law of Libel, if it be what it is represented, is an equally unreasonable task-master to Jurymen.

But this is only half the absurdity of the case: the Jury, it is said, are to find the fact of publication only; the court is to apply the law which denominates the publication as innocent

or criminal; but, notwithstanding this, the Jury are required to find the guilt or innocence of the defendant. The learned author of "Eunomus," in his anxiety to throw a decent covering over this matter, says that, "the law is pronounced to the Jury from the Bench," and, he asks exultingly, "Does not the judge betray his trust in not telling them how the law is?" [*Eun. Dial.* iii. *s.* 53] Let a judge answer him:—"I have been pressed very much by the counsel," says Mr. Justice Buller, in *Rex* v. *the Dean of St. Asaph*, "to give an opinion upon the question, Whether the pamphlet is or is not a libel? * * * It is not for me, a single judge, sitting here at *nisi prius*, to say whether it is or is not a libel. * * * In a *future stage* of the proceedings, if the defendant is found guilty, he will have a right to demand my opinion, and if ever that happens it is my duty, and I will; but till that happens, I do not think it proper, or by any means incumbent on me. Therefore I can only say, that if you are satisfied that the defendant did publish the pamphlet, and are satisfied of the truth of the innuendoes, you are bound, in point of law, to find him guilty" [See the *Trial*, p. 17]. This doctrine was afterwards confirmed by lord Mansfield and the whole Court of King's Bench. It was ratified also by the opinions of the twelve judges, delivered to the House of Lords, in answer to the seventh question referred to them on the occasion of Mr. Fox's Libel Act.* Now let us advert for a moment to the point at issue. The inquiry is, the legal guilt or innocence of the defendant, in respect of a particular act; the Jury are required to establish the one or the other upon oath, and being incapable of themselves, according to the court-doctrine, of knowing the legal character of the act done, the court refuses to assist them with any opinion on the subject. They are, in the language of the judges, "to take that from the court;" but that court withholds its opinion, though that opinion, according to their own doctrine, is the only medium of intelligence. We know but of one parallel to this absurdity. The government of Munich published a catalogue of forbidden books, but

* The answers of the Judges to the questions put to them by the House of Lords on this occasion exhibit a curious specimen of professional mystification. They may be found in Dodsley's *Ann. Reg.* vol. xxxiv. p. 62. They were commented upon with great and deserved severity in parliament, and the general opinion of the public respecting them may, perhaps, be well expressed in the words of Dr. Towers—"It would be difficult to point out any piece of writing in which perspicuity has been more successfully avoided" [*Towers's Tracts*, vol. ii. p. 169]. Or they may be characterized in a line of Smart's—

"The mental nonsense, neither true nor false."

forbade, under a heavy penalty, the reading of the prohibitory catalogue!

But the most monstrous absurdity is, that the very judges who insist that the Jury can decide nothing but the fact, never did, and never would, receive a verdict finding the fact only. We have already seen, that in the case of *Rex* v. *Penn and Mead*, indicted for speaking or preaching to an unlawful assembly, when the Jury pronounced a verdict of "Guilty of speaking," the court told them, "they had as good say nothing," and expressly required of them to find whether the assembly was *unlawful* or not. So in the case of *The King against the Dean of St. Asaph*, in 1784, Mr. Justice Buller sent back the Jury, telling them, that "Guilty of publishing only" was no verdict. In *The King* v. *Stockdale*, in 1789, "Guilty of publishing only" was treated as no verdict. So likewise in *The King* v. *Perry*, tried 9th December, 1793, the Jury found the defendant "Guilty of publishing, but with no malicious intention;" lord Kenyon refused to receive the verdict, and said, "it was no verdict at all." So that the Jury, who are told they perjure themselves if they extend their consideration beyond the mere fact, are yet required by the very men who impose that limitation on their functions, to declare on oath the legal character and quality of the fact.

Besides, is it not incompatible with every principle of reason and of justice, that a man's guilt or innocence should not be investigated at his trial? Is it not as tyrannical as it is absurd, first to convict and punish a man, and afterwards investigate his alleged guilt? If this be justice, it is after the order of Rhadamanthus, who was said to punish first, and hear the case afterwards—*castigat, auditque dolos.* Or it may find a more practical precedent in a custom mentioned by Dr. Brown, son of sir Thomas Brown, who, in his *Travels*, p. 123, says, "Among the odd customs of Carinthia, there is an old one, that if a man was vehemently suspected of theft, they hanged him, and some days after (at the return of the *postea*, as a lawyer would say), they judged of his guilt. If he was found guilty, they let his body hang till it was corrupted; if otherwise, they took it down, buried it on the public account, and said prayers for his soul."

By confining the duty of the Jury to the mere finding of the fact, the whole decision of the case is virtually taken from the Jury, and transferred to the judge. The Jury would thus retain a mere nominal function. In cases of libel, for instance, the fact of publication, and the applicability of the innuendoes, are usually uncontested: the whole struggle of the cause is generally applied to the nature of the publication—its guilty or

innocent character. To leave the whole of the contested matter to the sole decision of the judges would be to annihilate, virtually, the office of the Jury. Nothing would be left for the defendant to contend for; he would be surrendered up an unresisting sacrifice to special pleading. Mr. Fox well illustrated this in the discussion of his Libel Act:—"Apply this doctrine," he said, "to high-treason. Suppose they had a right to try me for high-treason, for a writing that was considered by the Court of King's Bench as an overt act; the court would have a right to say to the Jury, 'Consider only whether the criminal published the paper; do not consider the nature of it; do not consider whether it is treasonable, whether the overt act it intended was to accomplish the king's death; for whether it was or was not, that will depend upon the words set out on the face of the record, and the accused person will be guilty of high-treason; and if no motion be made in arrest of judgment, let him be hanged and quartered.' Would Englishmen endure that this should be the case? Could men permit death to be inflicted, without a Jury having had an opportunity of delivering their sentiments or verdict, whether the defendant was or was not guilty? If this doctrine were true, and applied to high-treason, then the overt act would be unnecessary; the person who wrote the paper would, probably, confess he published it, and would not have a word to say in his defence; he must be found guilty. His liberty and life would not depend on the ve[illegible] of twelve persons, but on four lawyers; I do not mean to [illegible] with [illegible]spect of the judges; but the verdict must de[illegible]n, who drew their deductions from books, an[illegible]ts and circumstances of the times. A man mi[illegible]tuation to lose his life, without the judgmen[illegible] This point is stronger in the case of high-tren[illegible] of libel; but it is only stronger inasmuch as de[illegible]ortan[illegible]han temporary confinement."—Fox's [illegible] 98.

But [illegible] "Why," says Mr. Erskine, "may [illegible]ur liberties and lives, who determin[illegible]ery thing that is dear to us? Th[illegible] the moment; but where is the a[illegible] trials, between man and man, whe[illegible] interest, and great state-prosecutio[illegible] are weighing against each other [illegible]y the servants of the executive [illegible] so lost to reason as

* Even B[illegible] he was, has candidly acknowledge[illegible] the crown. "The

to be a sceptic on such a subject, I can furnish him with a case, for one instance, directly in point. Let him turn to the 199th page of the celebrated Foster, to the melancholy account of Peacham's indictment for treason, in a manuscript sermon, found in his closet, but never published, reflecting on king James the First's government. The case was too weak to be trusted without management, even by the sovereign, to the judges of those days; it was necessary to sound them, and the great (but, on that occasion, the contemptible) lord Bacon, was fixed upon for the instrument. His letter to the king remains recorded in History,* where, after telling him his successful practice on the puisne judges, he says, that 'when in some dark manner he has hinted this success to lord Coke, *he will not chuse to remain singular.*' Mr. Erskine adds, "When it is remembered what comprehensive talents and splendid qualifications lord Bacon was gifted with, it is no indecency to say, that all judges ought to dread a trust which the constitution never gave them, and which human nature has not always enabled the greatest men to fulfil."—Erskine's *Speeches*, vol. i. p. 253.

The instance of judicial delinquency mentioned by Mr. Erskine, is by no means a solitary one; English history teems with such examples from the very earliest records. We need not go back to the reign of Alfred, who caused forty-four justices to be hanged in one year for false judgments and other acts of violent aggression against the rights of the subject [Horne's *Mirror of Justices*, pp. 108, 238]; nor to that of Edward I, who complained bitterly of the universal corruption of the judges, and fined most of them very heavily [Rapin's *Hist.* v. i. p. 364]; we may come within the period of what lawyers denominate "legal memory." If it were not notorious matter of history, it would not be credited, that sworn judges, including the two chief justices, actually decided in the reign of Richard II, that "the king is above the law" [*Rapin*, v. i. p. 464, n. 6]. For this judgment, however, sir Robert Tresham, the chief justice of the King's Bench, was afterwards deservedly hanged at Tyburn; his fellows in iniquity received the same sentence, but their lives were spared, and they were

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antiquity and excellence," he says, "of the trial by Jury for the settling of civil process has been before explained at large, and it will hold much stronger in criminal cases, since in times of difficulty and danger more is to be apprehended from the violence and partiality of judges appointed by the crown in suits between the king and his subjects, than in disputes between individuals."—Black. *Comm.* vol. iv. p. 361.

* See Lord Bacon's Letters.

merely banished [*Rapin*, v. i. p. 465]. Henry VIII had the fortune to possess, in Empson and Dudley, two judges who, with reference to their official iniquities and moral unworthiness, may be said to have been "equal to all things, for all things unfit," and who justly paid the forfeit of their crimes by a public execution on Tower-hill [*Rapin*, v. i. p. 708]. The reign of Charles I is conspicuous in this particular. All the twelve judges (or, as they thought fit to express themselves, "every man by himself, and all of us together") deliberately resolved, that, in cases of necessity, the king might levy money without consent of Parliament, and that of the necessity his majesty was the sole judge"* [*Rapin*, v. ii. p. 295]. Of lord keeper Finch, that active and indefatigable instrument of judicial corruption in the same reign, who declared, that while he was keeper, an order of council should always with him be equivalent to law, and who, when impeached for his crimes, fled from justice, we will say no more [See Hume's *Hist.* v. vi. p. 305]. Of Scroggs and of Kelyng, in the next reign, that of Charles II, it is still less necessary to say any thing, beyond the mention of their names. It is more to our present purpose to observe, that in this reign, all the twelve judges declared, under their hands, in a certificate to the king and council, that, "whoever printed or published any thing, anywise relating to the government, without particular licence from the government for so doing, was guilty of a great offence and misdemeanour, and severely punishable" [See *Rex* v. *Carr*, v. ii. *St. Tr.* p 554.]† In alluding to Jeffreys, what can we do better than to adopt the energetic language of Burke, used on another

* The infamous Strafford declared this opinion of the judges to be "the greatest service which the profession had rendered in his time to the crown"—See Strafford's *State Letters.*

† This declaration was the more atrocious, as having been made several years after the unconstitutional act for regulating the press had expired; but a similar doctrine was held, as we have before seen, by Mr. Justice Allybone, in the trial of the Seven Bishops. And that worthy personage, sir George Jeffreys, afterwards chief justice, when he was Recorder of London, lost no time in propagating this doctrine. He put forth a sort of judicial proclamation, intimating that "all the judges of England having met together for the purpose, had resolved that no person whatever can expose to the public knowledge any thing concerning the affairs of the public, without licence from the king or from such persons as he thought fit to intrust with that power." Lord Camden, observing on this resolution of the judges, asked, with constitutional abhorrence of the doctrine, "Can the twelve judges extrajudicially make a thing law, to bind the kingdom, by a declaration that such is their opinion? I say no: it is a matter of impeachment for any judge to affirm it."—See Woolrych's *Mem. of Jeffreys*, p. 56.

occasion, and say, that "his memory has stunk in the nostrils of all succeeding times?" The reign of James II has its full share of judicial iniquity. The judges solemnly determined, that the king, by virtue of his royal authority, might, at his will, "*suspend or dispense with the laws.*" [*Rapin*, vol. ii. pp. 755, 759.]* Other particulars of judicial oppressions may be found specified in the declaration of the rights and liberties of the subject, and the consequent Bill of Rights, at the Revolution in 1688. Is such an order of men fit to be trusted with the uncontrolled disposal of the subject's liberty in political cases?

But we shall perhaps be told, that these things occurred in times that are passed, and can never return; that our present judges are men of a totally different character, and may safely be trusted. With all due respect for several of our present judges, we doubt whether the ameliorated condition of modern judicature is not to be ascribed more to the change of times, than to any essential difference in the judicial character. It would be by no means difficult to state many "modern instances" but too well calculated to excite a distrust of judicial impeccability, and to satisfy us that our best security in this respect, consists in the improved spirit of the age. Judges could not now do, even if they were willing, what judges have done heretofore. Jefferys himself, if now on the bench, with the same sanguinary and tyrannical disposition which actuated him in his past career, could not do now what he formerly did. But power is power, and has a natural tendency towards usurpation and abuse; and judicial power has in all ages been obnoxious to its full share of that reproach. We are unwilling, therefore, to remove or relax any of those restraints which the constitution has given us, and which have led to the present amelioration, and among which restraints the liberty of the press has been by far the most efficient. But on the prevail-

* Four judges were found sufficiently virtuous to refuse their assent to this doctrine—sir Thomas Jones, William Montague, esq., sir Job Charlton, and sir Edward Neville: they were, of course, displaced [*Rapin*, vol. ii. p. 755, and *ib. n.* 2]. The answer of the first of these conscientious men deserves to be remembered. When the king told the judges "he would have the twelve judges of his own opinion," sir Thomas Jones told him, "Possibly you may find twelve *judges* of your opinion, but you will scarce find twelve *lawyers* to be so" [*Rapin*, vol. ii, p. 755, *n.* 1]. The learned judge was mistaken, however, in this conjecture. On the 11th June, in the following year (1687), the members of the Middle Temple, in a body, presented an address to the king, in which they assured him, that "they would defend with their lives and fortunes all the prerogatives claimed by him, upon the authority of that divine maxim, *à Deo Rex, à Rege lex.*"—*Rapin*, vol. ii. p. 759.

ing disposition to compliment the judges for the time being with the attribute of official perfection, we do not know that we can express ourselves better than in the language of a sensible little pamphlet on the law of Libel, published by Hunt, of Tavistock-street, in 1823:—"We are perpetually boasting," says the writer, "of the integrity of the judges. The judges on the bench are always, for the time being, the best of judges, the wisest and most upright of men; men who will neither do nor suffer injustice; men who will drive from their presence all who seek to pervert the law, or take advantage of its defects to injure any one. Yet how few are the dead judges, whose conduct has not been impeached, and that, too, on good grounds! Were the judges really and truly independent of the executive power, and were the people at liberty, as they ought to be (but as, with the consent of the judges, they never will be), to canvas the conduct of a living judge to the necessary extent, so that no judge could commit acts of folly or of injustice with impunity, very few such acts would be committed. Had this security been taken, and this freedom been enjoyed in time past, the evils which have been accumulating for ages would have had no existence; the law would have been precise, clear, and sufficient, and its administration very different indeed from that which we are compelled to witness."—Pp. 5, 6.

But to return from this digression. The authorities to which we have referred, are chiefly of a strictly legal kind; but great collateral aid might be given to our argument, by reference to books of a less professional character. We have not space to do so in detail, but we may make a passing reference to the following few, viz. to lord Somers's celebrated "Security of Englishmen's Lives; or, the Power and Duty of Juries," A.D. 1681; the "Guide to English Juries," A. D. 1682; the well-known "Dialogue between a Barrister and a Juryman," by sir John Hawks, solicitor-general to king William; Dr. Towers's tract on "The Rights and Duties of Juries" [*Tract* v. ii. p. 1]; Mr. Capel Lloft's, "Considerations on the Matter of Libel;" to the celebrated "Letters to Mr. Almon," before noticed; to baron Maseres's papers "On the Doctrine of Libel," published in 1792, and republished in 1809 [*Miscel. Tr.* p. 183]; to De Lolme, "On the Constitution" [ch. xiii. p. 176]; to a very argumentative note in "Boswell's Life of Johnson" [v. iii. p. 11, n. (1)]; to Mr. Rous's masterly "Letter to the Jurors of Great Britain," originally published in 1771, and republished in 1785; and to the late lord Stanhope's elaborate book, entitled "The Rights of Juries Defended," A. D. 1792, which displays the clearness of statement, energy of language,

and extensive research, that characterized all the works of that high-minded, intelligent, and independent nobleman. These references combine a great body of authority, derived from men of all parties, and of various ranks and professions in life, in support of the doctrine we contend for.

But the great final and conclusive authority is the statute 32 Geo. III. c. 60, commonly called the Libel Act, usually ascribed to Mr. Fox, who brought it into Parliament, but the merit of preparing which is now clearly proved to belong to Mr. Burke [See Prior's *Life of Burke*, p. 81]. By this statute, after reciting that doubts have arisen whether, on the trial of an indictment or information* for making or publishing any libel, on the plea of not guilty, it be competent to the Jury to give their verdict upon the whole matter in issue, "it is DECLARED and enacted, that on every such trial, the Jury sworn to try the issue may give a general verdict of guilty or not guilty *upon the whole matter put in issue*, upon such indictment or information; and shall not be required by the court or judge to find the defendant guilty, merely on proof of the publication by such defendant of the paper charged to be a libel, and of the sense ascribed to the same in such indictment or information [sec. 1]; but the judge shall, according to his discretion, give his opinion and direction to the jury on the matter in issue, *in like manner as in all other criminal cases*"† [sec. 2].

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* We have seen that in *Levy* v. *Milne*, chief justice Best attempted to confine this law to criminal cases (or rather, denied its existence altogether), but this is mere sophistication. Lord Coke, in the passage before cited, expressly states, that the right of the Jury to decide the whole issue applies equally to criminal and to civil causes [1 *Inst.* 226, b. 227]. When this statute was passed, no doubt existed as to civil cases, and the act declared the doubts which were suggested as to criminal cases to be contrary to law.

† In the year 1793, a statute was passed in the Parliament of Ireland to the same effect. The law of Scotland has always been acknowledged to be to this effect, and therefore required no statutory declaration [See Borthwick's *Law of Libel and Slander*, p. 141]. We add the following act of the State of New York, in America, which was passed on the 6th April, 1805, as a model of just and reasonable libel law:—

"Whereas, doubts exist whether, on the trial of an indictment or information for a libel, the Jury have a right to give their verdict on the whole matter in issue;—I. Be it, therefore, declared and enacted, &c. that on every such indictment or information, the Jury who shall try the same shall have a right to determine the law and the fact, under the direction of the court, in like manner as in other criminal cases; and shall not be directed or required by the court or judge to find the defendant guilty, merely on the proof of the publication by the defendant of the matter charged to be libellous, and of the sense ascribed thereto in such indictment or information: provided, nevertheless, that nothing herein con-

This statute (which—to his immortal honour be it remembered—would never have passed but for Mr. Erskine's unwearied and independent resistance against lord Mansfield's doctrine) clearly establishes, not merely that, in cases of libel, as in all other criminal cases, the Jury are to decide the whole issue, but that this was the constitutional law of the land—for it is a *declaratory* statute—promulgating what the law was, and not creating a new law. This has been a bitter pill to the enemies of the rights of Juries. Lord Kenyon, while he yielded an unwilling submission to the statute, mis-stated its nature, in a judgment delivered by him soon after the passing of the act, in *The King* v. *Holt*, 5 *Term. Rep.* p. 436, saying, "the Jury were now *enabled* to decide upon the whole question, including the intention of the party accused."* Mr. Holt, as might be expected, sneers at its declaratory character, though, bold as he is on the subject, he does not venture to *deny* it. "This statute," he says, "has often been deemed as declaratory only of the common law; it *affects*, indeed, merely to declare it in terms; it declares and enacts," &c. [Holt's *Law of Libel*, p. 305]. Mr. Worthington, however, whose intrepidity never fails him, when a bold assertion is required, states in express terms, but in as express contradiction of the statute, that "this act of parliament *enlarges* the province of the Jury" [p. 146]. The statute expressly professes to be declaratory; and when we consider

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tained shall be held or taken to impair or destroy the right and privilege of the defendant to apply to the court to have the judgment arrested, as hath heretofore been practised.

"II. That in every prosecution for writing or publishing any libel, it shall be lawful for the defendant, upon the trial of the cause, to give in evidence in his defence, the truth of the matter contained in the publication charged as libellous; provided also that such evidence shall not be a justification, unless on the trial it shall be further made satisfactorily to appear, that the matter charged as libellous was published with good motives, or for justifiable ends.

"III. That any person or persons who shall, after the passing of this act, be convicted of writing or publishing a libel, shall not be sentenced to an imprisonment exceeding the term of eighteen months, or to pay a fine exceeding the sum of five thousand dollars.

"IV. That from and after the passing of this act, it shall not be lawful to prosecute any person or persons, *by information*, for writing or publishing any libel."

A similar law prevails, with slight variations, throughout the United States.—See *Digest of the Laws of the United States.*

* Lord Ellenborough's manly mind, however, disdained such practices. Strongly as he was inclined against political libels and popular rights, he honestly and fully admitted in several cases, that the Jury "had cognizance over the whole issue in cases of libel, as in other criminal cases." —See in particular *Peltier's Trial*, p. 201.

the vehemence with which it was opposed by lord Thurlow and lord Mansfield, and all the judges, it is not possible to believe that it would have been suffered to pass in the form of a declaratory act, if that important character could have been denied to it.* Mr. Fox, in his introductory speech, expressly characterized it as a declaratory bill; he protested against "attempting any thing like innovation;" he reprobated the doctrine of the judges as "of modern date;" and when the bill was committed he called for the sense of the House upon this very point, in terms which put the matter beyond doubt. He said that, "although he had shown the House that this (lord Mansfield's) law of libel was contrary to the original principles of law, and dangerous to the constitution, yet when he would suggest a remedy for those evils, he found himself incapable of doing it without the assistance of the House. *If the committee were clear as to the law on the subject, he thought their wisest and most proper measure would be to enact a declaratory law respecting it.* If the committee were of opinion, that the high authorities (the judges) on the other side of the question made the law *doubtful*, they might settle the law upon the subject *in future, without any regard to what it had been in times past*"† [See Fox's *Speeches*, vol. iv. p. 245, 262]. The bill passed as a declaratory law. Mr. Erskine, Mr. Serjeant Glynne, and Mr. Dunning, supported the bill on these grounds. Mr. Pitt, expressing "great diffidence at setting up his opinion against the *practice* of the judges, concurred with Mr. Fox. Even the attorney-general (Macdonald), although he endeavoured, *ex debito officii*, to vindicate the living judges for following the

* Even sir John Scott, then solicitor-general, with all his disposition to carp at the bill, did not venture to deny that it was declaratory of the common law. That learned person exhibited, on this occasion, his peculiar faculty of frittering away popular rights by specious qualifications. The preamble stated, "Whereas doubts have arisen whether it be competent to the Jury to give their verdict upon the whole matter in issue," &c. He proposed to introduce, "with the assistance and under the direction of the judge," thus insidiously attempting to do the very thing which the act proposed to undo. "What," exclaimed Mr. Fox, "you want to keep up the old quarrel; you want again to let loose the judge upon the jury." The amendment was rejected, and, as his biographer observes, "the wily assailant of the bill returned to his lair disappointed of prey." —See *Life of Lord Eldon, Lond.* 1827.

† Dr. Bissett, a writer by no means too much disposed to favour the popular side, describes the character of these debates to the same effect. "Mr. Fox," he says, "introduced a bill, declaring the power of Juries to decide upon the law as well as the fact, in trials for libel. This bill was not debated as a party-question, but as a subject of *existing law*, justice, and constitutional right."—Bissett's *Life of George III*, v. ii. p. 323.

example of their immediate predecessors, supported the bill in this form. In the House of Peers, lord Camden recapitulated a series of cases from the time of Bracton down to modern times, and declared himself a friend to the bill, "not because it tended to *alter* the law of the land, but because it *established* it." He insisted that "the Jury did already possess, and always had possessed, a legal right to form their verdict on the whole case—law, fact, and intention—how much soever this right might have been discountenanced by the judges."* Lord Loughborough pursued a similar course of argument: "he considered the bill as a declaratory bill, the object of which was, not to make that law which was previously supposed to be of a different description, but to declare and explain what was understood to be at that instant the existing law of the land" [see *Parl. Debates*; see also Fox's *Speeches*, vol. iv. p. 269]. The bill passed in that form accordingly; and yet we are to be told, with a total suppression of these particulars, that the statute merely "affects" to be a declaratory law, and that it "*enlarges*" the original power of Juries. Misrepresentation cannot go much further.

But when this important principle could not be beaten down by open assault, attempts have been made to undermine it. Thus it is frequently intimated, most insidiously, that although

* "Lord Camden denied that the *practice* of the judges was sanctioned by authority, or that, by the law of the land, juries were circumscribed within stricter limits in cases of libel, than in any other subject of jurisdiction. An inquiry into the conduct of lord Mansfield was proposed, together with an examination of the legal rights of juries, and motions were made in both Houses for this investigation, but were negatived. Lord Mansfield left a paper with the clerk of the House, containing the unanimous opinion of the judges in favour of his doctrine. Lord Camden, on the other hand, pledged himself to prove, from law and precedent, that this doctrine, though approved by the judges, was not conformable to the law of England. He desired that a day might be fixed for discussing this question; but lord Mansfield, thus challenged to a contest of legal disquisition, either doubtful of victory, or deeming the combat imprudent, declined the invitation. The public was left with an impression, that lord Camden's doctrine, certainly more consistent with constitutional liberty, and with analogy to the general rights of Juries, to scrutinize intention, as well as to learn mere fact, was virtually admitted to be also conformable to law and precedent. If lord Mansfield could have proved the alleged exception in the case of libel, it was conceived that he would have adduced his proofs, in order to prevent future animadversion, as well as to justify his past jurisdiction. Men of ability and knowledge, who, without considering either precedented opinions or practice, merely argued from reason and conscience, could not discover why *intention* should not be taken into the juridical account, in estimating defamatory guilt, when intention was necessary to constitute guilt of every other species."—Bissett's *George III.* v. ii. p. 21.

the Jury have the power and the right, it may be expedient to forego the exercise of them. In the case of *The King* v. *the Dean of St. Asaph*, Mr. Bearcroft said, "There is no law in this country that prevents a Jury, if they choose it, from finding a general verdict; I admit it; I rejoice in it; I admire and reverence the principle as the palladium of the constitution. But does it follow that because a Jury *may* do this, they *must* do it? that they *ought* to do it?" This insidious stuff is often heard in the present day. We answer the question without hesitation, that the Jury ought to do so in all cases in which their consciences are satisfied. It is a sacred trust confided to them for the protection of men's fortunes, liberties, and lives; and Juries are, in our judgment, guilty of a gross and inexpiable dereliction of duty, when they surrender to others, however high in rank or exalted by ability, the exercise of those functions which, for the wisest purposes, were specially delegated to themselves. In the language of chief justice Vaughan before cited, they ought to see with their own eyes, and hear with their own ears; or, to use the words of Mr. Horne Tooke, in the action brought against him by Mr. Fox, in 1792, "any Jury that shall deliver a verdict against any defendant, without having well and truly tried the whole question at issue between the parties, is a perjured Jury."

It is time to bring this long article to a close; its importance has led us to a greater length than we anticipated, but not greater, we hope, than the subject deserves. We trust that we have satisfactorily established that the right we contend for in behalf of Juries does exist, and that it has existed immemorially and constitutionally, and that it is equally consonant to every sound principle of legal and of moral justice.

Art. VIII.—*Memoirs of Zehir-ed-din Muhammed Baber, Emperor of Hindustan.* Written by himself, in the Jaghatai Turki, and translated, partly by the late John Leyden, Esq. M. D., partly by William Erskine, Esq. With Notes and a Geographical Introduction. London. 1826. Longman & Co.

FEW of our readers probably are acquainted with the history of Emperor Baber: some may possibly be aware that he was an ancestor of the celebrated princes Akber and Aurengzebe: others may even know that he was the conqueror of India, and a descendant of the famous Tamerlane, a Tartar king, and a renowned warrior. Lest this ignorance, however, should remain for all time, this extraordinary man, surnamed Baber, or the

Tiger, has handed down to posterity a most particular narrative of his adventures, of the strange vicissitudes of his life, of the characteristics of the various kingdoms he at any period possessed or visited, of the princes who joined or opposed him in war, and their generals and courtiers, of his relatives, and, above all, of himself. Baber flourished during the reigns of our Henry VII and Henry VIII, and the progress of the Reformation in the West may be considered as contemporary with the events of his reign. In the arts of life, and more especially in its luxuries, the East had at that time outstripped the countries of the West; it abounded in men of learning and acquirement, the elegant branches of literature were pursued with eagerness; poetry was the amusement, while the intricacies of diplomacy were the occupation, of its statesmen: several capitals at different periods antecedent to this æra present a picture of splendour, luxury, and polished manners, to which it would be vain to look for a parallel in the contemporary courts of the sovereigns of Europe. Political stability and individual security were, however, unhappily wanting to insure either the present enjoyment of the fruits of civilization, or their future advancement and progression towards maturity. In the age of Baber thrones and dominions passed from hand to hand like current coin: the contemporaries of this prince, as had time immemorial been the custom with their ancestors, were occupied all their lives in one struggle for empire. When a throne was the stake, every stroke was fair play, no bond could bind, no impediment deter; the nobles, themselves inferior kings, were connected with the chief authority by ties as easily loosed, and at the first call of interest or caprice threw up their allegiance or transferred their obedience. Where the only object is to grasp a portion of power, and where the end is held sacred enough to sanctify any means, the demon of confusion is let loose, and the elements of society are thrown into a complete state of chaos. The unsettled law of descent increased enormously the evils arising out of this total absence of political morality. The rights of primogeniture were but vaguely defined among oriental princes; and, at the death of a sovereign, the son, whose power or proximity enabled him to seize upon the chief authority, considered it as his privilege; and if his brothers were too feeble to maintain a struggle for the richest jewel in the crown, they made an attempt on some of its less important ornaments—a province or a dependency. Every page of these Memoirs presents a lively picture of the manners which arise out of this unhappy condition; and they are necessarily of that striking description which arrests the attention and excites the interest of the most apathetic person. The very

properties which render this state of things detestable in a general point of view, produce those individual results which rouse strong feelings of sympathy, and give the air of a romance to the veracious topics of history. No hero of a novel passes through the ordeal of so many or so remarkable vicissitudes of fortune, as the subject of these Memoirs:—with him we suddenly change the scene from a palace to a mountain hovel—from the head of armies to an obscure flight—from the luxurious enjoyments of the arts and the muses to the midnight assault or the miseries of a siege. He is at one time displaying his individual prowess like a knight of chivalry in a single combat, at another dispensing the kingdoms and principalities he has won by his valour; at another, seeking the assistance of a neighbour, in a state of utter destitution; now, elaborating the delicate niceties of oriental metre, or criticizing fastidiously the compositions of others: now, cutting palaces or roads from the solid rock; and we might thus go on, through all the imaginary conditions of human existence in the East. Neither is it without a considerable feeling of personal interest that Baber is thus followed from court to camp, from the plain to the mountain: without design he displays qualities which raise him in our estimation far beyond the character ordinarily deserved by oriental monarchs. He is brave, generous, and, for his country and race, honourable; he is social, benevolent, friendly; for his age humane; a lover and a professor of poetry; a patron of the arts; a promoter of justice, and endowed with considerable talents both of a physical and intellectual kind. He could not only conquer, but he could preserve his conquests: at a time when fidelity was most rare, he apparently inspired warm feelings of attachment, encouraged around him an able race of lieutenants, whom he cherished with kindness and rewarded with munificence; and thus, though born to a petty principality, he left to his son one of the most extensive and powerful of the empires of the East, and contrived that he should succeed to it without a struggle with his brethren.

As a piece of auto-biography, this book is full of human interest: as a piece of history, it lifts the veil from a period of great darkness, exhibits the condition of large races of people before imperfectly known, and describes, with minuteness and fidelity, the foundation of a mighty empire to which our countrymen have succeeded. These considerations induce us to give as accurate an idea of the nature and contents of this work as our space will allow, and as is consistent with its great length and infinite variety.

The continent of Asia is divided nearly in its whole breadth by a vast chain of mountains which separate the immense tract

of country called Tartary, and which corresponds with the ancient Scythia, from the more wealthy and civilized countries to the South, Hindustan, Persia, and a part of the Turkish territory. The belt itself is inhabited in all its extent by various hill-tribes which differ from each other; while to the north of it, the pastoral population of Tartars may be divided into three distinct races, each differing in character, appearance, and language, though partaking in common of many distinctive peculiarities. The race which dwells, or rather wanders, to the north of China are the Mandshûrs or Manchews, who have given the present dynasty to the Celestial Empire. The vast extent of country forming part of the south east of Europe from the sea of Azof down to the Caspian, and extending along the upper part of Asia, taking for its southern boundary the mountains to the north of Persia and Hindostan, is occupied by the Tûrkis. Between these two vast tribes lie the Monghols or Moghuls.

The country between the Amu and the Sirr rivers (the Oxus and Jaxartes of antiquity), usually called Great Bucharia or Mâweralnaker, though included in this geographical division, differs essentially from it in its natural conditions. It is a region abounding in fine tracts of land, defended by inaccessible mountains and barren deserts. While the barrenness of Tartary compels its occupiers to seek a wandering subsistence, Bucharia is formed for cultivating the advantages of civilization and commerce, and when its governors have possessed sufficient power to secure it from foreign enemies, its cities have always rapidly attained to wealth and prosperity. It is now, however, overrun and governed by Tûrki tribes, who were not its original inhabitants. Of this tribe was Baber, the son of Omer-Sheikh, the king of Ferghana, a district situated in the north of Bucharia on the banks of the Sirr, and nearly surrounded by mountains. To this kingdom Baber succeeded at the age of twelve on the accidental death of his father, who fell from the fort of Akhsi down a precipice, with his pigeons and pigeon-house, as he was amusing himself with training this bird, a favourite pastime with the princes of the east. Omer-Sheikh was a son of the celebrated Abûsaid, the grandson of Tamerlane or Taimur Beg, whence Baber always speaks of himself as a Tûrk; while on the mother's side he traced his descent from the great Chengiz Khan, through his grandfather Yunis Khan, a noted prince of the Moghuls. While Abusaid conferred on his son, Omer-Sheikh, the kingdom of Ferghana, nearly the whole remainder of Bucharia was divided between two other sons. Sultan Ahmed Mirza was king of Samarkand and Bokhâra, and sultan Mah-

mûd Mirza was the sovereign of Hissar and the other districts on the north of the Amu, and of Badakshân on the south. These three brothers had married three sisters, the daughters of Yunis Khan, so that Baber found himself at twelve years of age an independent king, his two uncles being seated on the two neighbouring thrones at the same time that a third uncle, Ulugh Beg Mirza, was king of Kâbul and Ghazni, and a maternal uncle, sultan Mahmûd Khan, a Moghul prince, held the fertile provinces of Tashken and Sharokhiâ, a part of Bucharia itself, as well as the chief power over the Moghuls of the desert. At the moment of Omer-Sheikh's death, his brother, sultan Ahmed Mirza, the king of Samarkand, and sultan Mahmûd Khan, his brother-in-law, were leading an army against his dominions of Ferghana; so that at his tender age Baber not only succeeded to the throne of his father, but to his feud with his two uncles. At this point Baber commences his Memoirs.

When news was brought of the death of Omer-Sheikh, Baber was in Andejân, a town at some distance from Akhsi. Boy as he was, his education taught him that he must make a vigorous effort for the throne: being at the Charbagh palace, in the suburbs, he mounted and rode with the few attendants he could collect and made for the castle. On his road thither an adherent met him, and attempted to persuade him to take to the hills; alleging, that as the sultan Ahmed Mirza was approaching with a great army, the Begs of Andejân might deliver both him and the country into his uncle's hands. The nobles, however, hearing of this design, sent a messenger to dispel his apprehensions. A consultation of the Begs was held in Baber's presence, and all joined "with one heart and soul" in his service. It was determined zealously to maintain the place, and in the mean time to try the effect of an embassy on his uncle, who had encamped within sixteen miles of the citadel. A message was delivered to him to this effect: "It is plain that you must place some of your servants in charge of this country; I am at once your servant and your son; if you intrust me with this employment your purpose will be attained in the most satisfactory way." But the sultan was not of this opinion. Meeting, however, with unexpected resistance on the part of the inhabitants, and serious obstacles from the nature of the country, a peace was patched up and the invading army retreated. Two other incursions, the one on the part of the maternal uncle, sultan Mahmûd Khan, and another made by a prince of Kâschgar on the east of Ferghana, were similarly resisted; after which, the

family of Omer-Sheikh, the brothers of Baber, and the rest of the Harem, being conducted from Akhsi, had leisure to perform the ceremonies of mourning for the departed king.

The sultan Ahmed Mirza on his return home to Samarkand died, and was succeeded by his brother the sultan Mahmûd Mirza, for whom the Begs sent from Hissâr on the demise of his brother. It is the practice of Baber, when he records the death of any of his distinguished contemporaries, to draw his portrait: these portraits, and there are several hundreds of them, form a remarkable and an amusing feature of these Memoirs.

The conduct of sultan Mahmûd Mirza disgusted his subjects; and the nobles he had brought from his former kingdom of Hissâr imitated the debauchery and tyranny of their master. It is given as an example, that Khosrou Shah, one of his principal adherents, said to a man on his coming to complain that a retainer of the Shah's had seized and carried off his wife, "You have had her a great many years: it is certainly but fair that he should now have her for a few days." Five or six months however relieved the people of Samarkand from the oppression of this sultan.

His son Baiesanghar Mirza succeeded him in Samarkand, but not without a struggle. Sultan Mahmûd Khan, who has been mentioned as the maternal uncle of Baber, brought down his Moghuls to contend for the throne of Samarkand, without any earthly claim upon it beyond the argument of neighbourhood. His army was however utterly discomfited. A vast number of Moghuls perished, and so many of them (says Baber) were beheaded in the presence of Baiesanghar Mirza, that they were forced three several times to shift his pavilion, in consequence of the heaps of slain that lay before it.

While these events were passing, Baber, then thirteen, undertook the expulsion of a rebel chief who had seized one of his principal towns, and read the Khutbeh (the prayer for the prince) in it, in the name of Baiesanghar Mirza, then in possession of Samarkand. Of this expedition Baber gives a lively account, and speaks of all measures taking place under his direction as if in the uncontrolled exercise of his power, even at his early age. Events brought him near to his maternal uncle sultan Mahmûd, then in Shahrokhîa: he describes his motives as chiefly those of conciliation, but also with a view which might have been expected from a more experienced statesman, that he might form "a nearer and better idea of the real state of things at his court."

Baber's cousin did not l[illegible] quiet dominion of Samarkand. The discont[illegible] up his brother,

sultan Ali Mirza in his stead. And the rapid revolutions of fortune in the instances of these two young men is a lively example of the fate of Asiatic princes. Baiesanghar was entrapped into the power of the rebel nobles, who shut both brothers up while they consulted as to the steps they should take with regard to them. Baiesanghar escaped out of the fort by pleading the necessity of retiring for a few minutes: Taking refuge in the house of a man of high authority, he quickly returned and gained possession of his brother's person, and secured the chief of the discontented Begs. The latter he put to death, and ordered the fire-pencil to be applied to his brother's eyes: whether from design or want of skill in the surgeon, no injury was done to them. He then fled in his turn: returned with an army, defeated Baiesanghar, drove him into Samarkand, and besieged him.

Baber would not have been educated in the principles of his times, if, boy as he was, he had not attempted to take advantage of this scene of fraternal strife. "This intelligence," says he, "reached me at Andejân in the month of Shâwal, and in that same month I too mounted and set out with my army to attempt the conquest of Samarkand." Sultan Masâud Mirza, the third brother who governed at Hissâr, likewise came up to mix in the affray. Thus was the one brother Baiesanghar Mirza beleaguered on three sides, by his two brothers and his cousin. Baber made a junction with sultan Ali Mirza, for which purpose they had an interview, attended by four or five followers each, in the midst of the river Kohik. According to agreement Baber closely invested Samarkand; and, after a good deal of hard fighting, and an arduous siege of seven months, succeeded in gaining possession of that capital. When Baiesanghar perceived the city closely pressed, and all his hopes of succour had failed, he made his escape; after which the chief men of the city and the Begs came out to meet the conqueror and introduce him into the town. Baber gives a very delightful description of his new acquisition, it produced however, to himself, a train of evils. The place had been thoroughly exhausted by the siege, and Baber had no means of rewarding or even of supporting the troops who had assisted him in the conquest. They began to desert in small parties, and the prince feared that he should soon be left alone in his new conquest. In addition to the natural difficulty of these circumstances, some of his principal nobles demanded the towns of Andejân and Akhsi in his paternal kingdom for his younger brother Jehangîr. This was certainly not a moment in which to give away his chief dependencies. The Begs, however, would take no refusal; and, carry-

ing along with them the greater part of the discontented soldiery, they laid siege to the towns in order to gain by force what they had lately begged as a boon. At this crisis the young prince (then fifteen years old, it should be remembered) fell ill.

'Among those who had deserted from Samarkand, were a number of good soldiers. Khwâjeh Kazi, immediately on his arrival, with a view of preserving the fort, and induced by his affection and attachment to me, divided eighteen thousand of his own sheep among the troops who were in the town, and among the wives and families of such as were with me. During the siege, I received letters from my mother as well as from Khwâjeh Kazi, mentioning that they were besieged, and so hotly pressed, that, if I did not hasten to their relief, things would come to a very bad termination: That I had taken Samarkand with the forces of Andejân, and, if I still continued master of Andejân, might once more (should God prosper me) regain possession of Samarkand. Letters of this import followed fast upon each other. At this time I had just somewhat recovered from a severe illness. My circumstances, however, prevented me from nursing myself during my amendment; and my anxiety and exertions brought on such a severe relapse, that for four days I was speechless, and the only nourishment I received was from having my tongue occasionally moistened with cotton. Those who were with me, high and low, Begs, cavaliers, and soldiers, despairing of my life, began each to shift for himself.'—p. 57.

This circumstance being represented by the rebels, the governor of the town was induced to surrender it: so that in spite of a vigorous effort which Baber made to shake off his illness and go to its succour, he received intelligence on his way that the fortress had already been surrendered. Thus for the sake of reigning one hundred days in Samarkand he lost the place which had fitted him out with the means of success.

'I now became a prey to melancholy and vexation; for since I had been a sovereign prince, I never before had been separated in this manner from my country and followers; and since the day that I had known myself, I had never experienced such grief and suffering.—p. 58.

Sultan Mahmûd Khan, at the solicitation of his nephew, marched into the kingdom of Ferghana for the purpose of restoring him, but, listening to the proposals of the rebels returned without effecting any thing. All the Begs, captains and warriors, who had till that moment been his companions took the opportunity of abandoning him, so that Baber was left alone with only his wives and family, who had been sent out of Andejân to him at a small town called Khojend, half way between Andejân and Samarkand. "I was now reduced to a very distressed condition, and wept a great deal." "Khojend," he adds, "is but a small place, and it is difficult for one to support two hundred

retainers in it. How then could a man, ambitious of empire, set himself down contentedly in such a place?" At Khojend, however, he is compelled to remain from a year and a half to two years, in the mean time having failed in repeated attempts against both Andejân and Samarkand. He, however, borrows another town during a winter from a neighbouring chief, for the purpose of being nearer to Samarkand, in the hope of being more successful. In many attempts he did indeed prevail, but so far from bettering his condition he felt himself compelled to leave his *borrowed* town and go to Khojend, where the Mussulmans of the place had ruined themselves to support him. "With what face," says he, "could I return, or what benefit could result from it?

"There was no secure place for me to go to,
And no place of safety for me to stay in."

It is not long, however, before his hopes are again excited by the return of one of the disobedient Begs to his allegiance:—

'In this state of irresolution and uncertainty, I went to the Ailâks, to the south of Uratippa, and spent some time in that quarter, perplexed and distracted with the hopeless state of my affairs.

'One day, while I remained there, Khwâjeh Abul Makâram, who, like myself, was an exile and a wanderer, came to visit me. I took the opportunity of consulting him with respect to my situation and concerns, whether it was advisable for me to remain where I was, or to go elsewhere, what I should attempt, and what I should leave untried. He was so much affected with the state in which he found me, that he shed tears, and, after praying over me, took his departure. I myself was also extremely affected.

'That very day, about afternoon prayers, a horseman was descried at the bottom of the valley. He proved to be a servant of Ali Dost Taghâi, named Yûljûk. He came with a message from his master, to inform me that he had undoubtedly offended deeply, but that he trusted to my clemency for forgiving his past offences; and that, if I would march to join him, he would deliver up Marghinân to me, and would do me such service and duty as would wipe away his past errors, and free him from his disgrace.'—p. 65.

When this intelligence arrived it was about sunset, and Marghinân was situated about a hundred miles distant. Baber immediately mounted, followed by a small troop of partisans, and marched upon this town. After travelling three days and nights passed without rest,

'About the time of the sunnet (or morning prayer), 'he says,' we reached the gate of the castle of Marghinân. Ali Dost Taghâi stood over the gateway, without throwing the gate open, and desired con-

ditions. After I had assented to terms, and given him my promise, he caused the gates to be opened, and paid his respects to me, conducting me to a suitable house within the fort. The men who had accompanied me amounted, great and small, to two hundred and forty.'—p. 65.

Baber's arrival in Marghinân was quickly followed by an unsuccessful attempt on the part of the nobles, headed by Uzun Hassan and sultan Ahmed Tambol, to expel him from the town. Their failure led to the declaration of various tribes of the people in his favour; and particularly by that of the citadel of Andejân, whence the nobles were compelled to escape, and Baber once more recovered his paternal kingdom, of which he had been deprived two years. Hassan was besieged in Akhsi; he was the ringleader of the rebellion; and it shows, not the humanity of the period, certainly, but the respect with which the person of a powerful noble was treated, that having asked quarter, and surrendered the fort, he was allowed to depart. Baber sent an army in pursuit of the other chief of the insurrection, Tambol, with whom was Jehangîr Mirza, Baber's younger brother; but the task of reducing him proved a difficult undertaking. Baber himself collected all his troops, far and near, and the two armies confronted each other near Andejân; and in a battle which ensued, Baber's first pitched battle, as he records, he was completely victorious. In the winter, however, Tambol received reinforcements from one of the capricious Moghul princes, the maternal uncle of Baber, who have already been often mentioned. These forces, however, commanded by Tambol's eldest brother, Baber puts to flight; and if his inclination had been followed, would probably have treated this Tambol himself in a similar manner.

'The moment that Tambol knew of my march, he had set out with all speed to the assistance of his elder brother, and now came up. It was about the time between afternoon and evening prayers, when the blackness occasioned by the approach of Tambol's army became visible in the direction of Noukend. Confounded and disconcerted at the sudden and unnecessary retreat of his elder brother, as well as by my expeditious arrival, he instantly drew up. I said, "It is God himself that has conducted them hither, and brought them so far to fatigue their horses! Let us come on, and by the favour of God, not one of those who have fallen into our hands shall escape out of them." Weis Laghari and some others, however, represented that the day was now far spent; that if we let them alone that day it was out of their power to escape during the night, and that we could afterwards confront them wherever they were found. This advice was followed, and they were not attacked. And thus when, by a piece of rare good fortune, the enemy had come, as if to put themselves in our power, we suffered them to get away without the slightest injury. There is a saying,

'*(Tûrki).*—He that does not seize what comes into his grasp,
Must indulge his regret even to old age, and repine.'—p. 76.

When morning came the enemy were not to be found. Matters went on in this way for some time, when the nobles about Baber got tired, wished to return to their governments, and compelled him to make peace sorely against his will. The kingdom of Ferghana was accordingly divided in unequal portions between Baber and his younger brother, Jehangîr Mirza, whose cause had been made the pretext of Tambol's movements.

Soon after this peace, but not before Baber had become heartily tired of doing nothing, and of the authority which some of his Begs, relying upon the support of Tambol, assumed over him, he accepted with gladness an invitation from some of the chiefs in Samarkand to seize that city, which sultan Ali Mirza had entered when it had been formally abandoned by him. He is, however, anticipated by the descent of Sheibâni Khan, a powerful leader of the wandering tribes of the desert, who cuts a conspicuous figure in these pages. When news came that Sheibâni Khan was on his march, had taken Bokhara, and was coming down upon Samarkand, Baber retreated beyond Samarkand, leaving his own kingdom still farther, in preference to encountering the forces of the Uzbek chief. Samarkand was taken, and sultan Ali Mirza was treacherously put to death. After wandering in the mountainous districts to the south of Samarkand, and meeting with a variety of fortune, Baber determines, in spite of Sheibani, to make an attack upon Samarkand. In this perilous enterprise, highly creditable to the skill and valour of our hero, he succeeds triumphantly.

After the taking of Samarkand the second time, his affairs went on prosperously; and in the leisure of winter Baber resorted to his favorite amusement of composing verse, for he was a minstrel as well as a warrior. The poetry, generally turning upon a play of words, or excelling only in the intricacy of its measure, loses its point in translation: nevertheless to shew the character of Baber's composition, we will extract a passage in which he records the verses he exchanged with a celebrated wit and poet of the enemy's party.

'At the time when I took Samarkand this second time, Ali Shîr Beg was still alive. I had a letter from him, which I answered. On the back of the letter which I addressed to him, I wrote a couplet that I had composed in the Tûrki language; but before his reply could arrive, the commotions and troubles had begun.

'Sheibâni Khan, after taking Samarkand, had received Mûlla Binâi into his service, since which time the Mûlla had attended him. A few

days after I took the place, the Mûlla came to Samarkand. Kâsim Beg having suspicions of him, ordered him to retire to Sheher-Sebz; but soon after, as he was a man of great knowledge, and as the charges against him were not established, I invited him to return to the capital. He was constantly composing kasîdehs and ghazels. He addressed to me a ghazel adapted to a musical air, in the Nawa measure; and about the same time composed and sent me the following quatrain:—

'I neither possess *grain* to eat,
Nor *the perversion of grain* to put on;
Without food nor raiment,
How can one display his learning and genius?

'About this period, I sometimes amused myself with composing a couplet or two, but did nor venture on the perfect ghazel, or ode. I composed and sent him a rubâi (or quatrain), in the Tûrki language:—

'Your affairs *shall* all succeed to your heart's content;
Presents and a settled allowance *shall be* ordered for your reward.
I comprehend your allusion to the grain and its perversion;
Your person shall fill the cloth, and the grain *shall* fill your house.

'Mûlla Binâi composed and sent me a rubâi, in which he assumed the rhyme of my quatrain for the redif of his own, and gave it another rhyme:—

'My Mizra, who *shall be* sovereign by sea and land,
Shall be distinguished in the world for his genius;
If my reward was such for a single unmeaning word,
What would it have been had I spoken with understanding!

'At this time Khwâjeh Aba-al-Barka, surnamed Feraki, came from Sheher-Sebz. He said, "You should have kept the same rhyme;" and recited the following rubâi:—

'This tyranny which the sphere exercises *shall be* inquired into;
This generous Sultan *shall* redress her misdeeds;
O cup-bearer! if hitherto thou hast not brimmed my cup,
At this turn (or reign) *shall* it *be* filled to the brim.'—p. 90.

In the spring, Sheibâni Khan again appears in the field, and Baber's utmost exertions are required to meet him with an adequate force. A battle of a very formidable kind, which is precipitated by Baber's regard for the position of certain stars, and which he states he afterwards found out to be all nonsense, proves decidedly unfavourable to the young prince, and he is compelled to make a hasty flight to Samarkand.

'Only ten or fifteen persons were now left with me. The river Kohik was near at hand, the extremity of my right wing having rested upon it. We made the best of our way to it, and no sooner gained its banks than we plunged in, armed at all points both horse and man. For more than half of the ford we had a firm footing, but after that we sank beyond our depths, and were forced, for upward of a bowshot, to

swim our horses, loaded as they were with their riders in armour, and their own trappings. Yet they plunged through it. On getting out of the water on the other side, we cut off our horses' heavy furniture and threw it away. When we had reached the north side of the river, we were separated from the enemy. Of all others, the wretches of Moghuls were the most active in unhorsing and stripping the stragglers. Ibrâhim Terkhân, and a great number of excellent soldiers, were unhorsed, stripped, and put to death by them.

'If the Moghul race were a race of angels, it is a bad race;
And were the name Moghul written in gold, it would be odious.
Take care not to pluck one ear of corn from a Moghul's harvest;
The Moghul seed is such that whatever is sowed with it is execrable.

'Advancing up the north side of the river Kohik, I re-crossed it in the vicinity of Kulbeh. Between the time of afternoon and evening prayers, I reached the Sheikh-Zadeh's gate, and entered the citadel.'—p. 93.

Baber shut himself up in the city with his Begs, and resolved to defend the place to the last extremity. Samarkand was, however, ill supplied with provisions, and Sheibâni Khan pressed the siege with a vigour to which Baber was, after several months of hardship, compelled to submit. Once more the king was obliged to abandon the city which had cost him so much toil to gain. Sheibâni proposed terms, and Baber, yielding to a kind of capitulation, escaped in the night.

'About midnight I left the place by Sheikh-Zâdeh's gate, accompanied by my mother the Khanum. Two other ladies escaped with us, the one of them Bechega Khalifeh, the other Mingelik Gokultâsh: my eldest sister Khanzâdeh Begum was intercepted, and fell into the hands of Sheibâni Khan, as we left the place on this occasion. Having entangled ourselves among the great branches of the canals of the Soghd, during the darkness of the night, we lost our way, and after encountering many difficulties, we passed Khwâjeh Dîdâr about dawn. By the time of early morning prayers, we arrived at the hillock of Karbogh, and passing it on the north below the village of Kherdek, we made for Ilân-ûtî. On the road, I had a race with Kamber Ali and Kâsim Beg. My horse got the lead. As I turned round on my seat to see how far I had left them behind, my saddle-girth being slack, the saddle turned round, and I came to the ground right on my head. Although I immediately sprang up and mounted, yet I did not recover the full possession of my faculties till the evening, and the world, and all that occurred at the time, passed before my eyes and apprehension like a dream, or a phantasy, and disappeared. The time of afternoon prayers was past ere we reached Ilân-ûtî, where we alighted, and, having killed a horse, cut him up, and dressed slices of his flesh; we stayed a little time to rest our horses, then mounting again, before day-break we alighted at the village of Khalileh. From Khalileh we proceeded to Dizak. At that time Tâher Dûldai, the son of Hâfez Muhammed Beg Dûldai, was governor of Dizak. Here we found nice fat flesh, bread of fine flour well baked,

sweet melons, and excellent grapes in great abundance; thus passing from the extreme of famine to plenty, and from an estate of danger and calamity to peace and ease:—

'(*Turki.*)—From famine and distress we have escaped to repose;
We have gained fresh life, and a fresh world.

'(*Persian.*)—The fear of death was removed from the heart;
The torments of hunger were removed away.'—p. 98.

In Dehkat, a district of Uratippa, a mountainous country to the north-east of Samarkand, and under the authority of Baber's maternal uncle, he spent the winter; and of his position here we may judge from the following lively paragraph:—

'Dehkat is one of the hill-districts of Uratippa. It lies on the skirts of a very high mountain, immediately on passing which, you come on the country of Masikha. The inhabitants, though Sarts, have large flocks of sheep, and herds of mares, like the Tùrks. The sheep belonging to Dehkat may amount to forty thousand. We took up our lodgings in the peasants' houses. I lived at the house of one of the head men of the place. He was an aged man, seventy or eighty years old. His mother was still alive, and had attained an extreme old age, being at this time a hundred and eleven years old. One of this lady's relations had accompanied the army of Taimur Beg, when it invaded Hindûstân. The circumstances remained fresh in her memory, and she often told us stories on that subject. In the district of Dehkat alone, there still were of this lady's children, grandchildren, great-grandchildren, and great-great-grandchildren, to the number of ninety-six persons; and including those deceased, the whole amounted to two hundred. One of her great-grandchildren was at this time a young man of twenty-five or twenty-six years of age, with a fine black beard. While I remained in Dehkat, I was accustomed to walk on foot all about the hills in the neighbourhood. I generally went out barefoot, and, from this habit of walking barefoot, I soon found that our feet became so hardened that we did not mind rock or stone in the least. In one of these walks, between afternoon and evening prayers, we met a man who was going with a cow in a narrow road. I asked him the way. He answered, Keep your eye fixed on the cow; and do not lose sight of her till you come to the issue of the road, when you will know your ground. Khwâjeh Asedlûla, who was with me, enjoyed the joke, observing, What would become of us wise men were the cow to lose her way?'—p. 99.

In the spring, Baber betook himself once more to Tashkend to his uncle the Khan, and joined an expeditition which that prince fitted out. The Khan was not a warlike prince, and it ended in nothing. At this time Baber was without a country, or, as he says, hopes of a country; and describes himself as suffering great distress and misery. Most of his servants had left him, and the few who remained were unable to accompany him on his journies from sheer poverty. When he went to his uncle's divan, he was sometimes [illegible] mpanied

by one man and sometimes by two, and congratulates himself that such indignity was suffered not among strangers, but among his own kinsmen. "After having paid my compliments to the Khan my uncle" says the king of Ferghana and of Samarkand, and the future conqueror of India, "I went in to wait on the Shah Begum, bareheaded, and barefooted, with as much freedom as a person would do at home, and in his own house." This appeared to him a favourable opportunity for putting in execution a project of visiting China, which it seems he had entertained from his infancy.

It was necessary, however, to conceal his design, for he observes, that "his mother could not have supported the mention of such a proposition;" and because it was unpleasant to communicate it to the people he had about him, who had attached themselves to him with different hopes, and, supported by which, had shared with him his wanderings and distresses. The excuse he therefore alleged was, a pretended visit to another maternal uncle, sultan Ahmed Khan, who dwelt in Moghulistan, a country which laid in his intended route, when unluckily the intelligence arrives, that this Khan is on his road to pay the elder brother a visit. The Khan himself quickly follows this announcement. The account of Baber's going out to meet him is highly characteristic of oriental manners, while the conclusion of it brings us back to the social familiarity of the west.

'We advanced as far as these villages, and not knowing precisely the time that the younger Khan would arrive, I had ridden out carelessly to see the country, when all at once I found myself face to face with him. I immediately alighted and advanced to meet him; at the moment I dismounted, the Khan knew me, and was greatly disturbed; for he had intended to alight somewhere, and having seated himself, to receive and embrace me with great form and decorum: but I came too quick upon him, and dismounted so rapidly, that there was no time for ceremony; as, the moment I sprang from my horse, I kneeled down and then embraced. He was a good deal agitated and disconcerted. At length he ordered sultan Said Khan and Baba Khan Sultan to alight, kneel, and embrace me. Of the Khan's children, these two sultans alone accompanied him, and might be of the age of thirteen or fourteen years. After embracing these two sultans I mounted, and we proceeded to join Shah Begum. The little Khan my uncle soon after met, and embraced Shah Begum and the other Khanums, after which they sat down, and continued talking about past occurrences and old stories till after midnight.'—p. 105.

Baber gives a spirited sketch of his younger uncle in a few words:—

'The younger Khan came with but few followers; they might be more than one thousand, and less than two. He was a man of singular

manners. He was a stout, courageous man, and powerful with the sabre, and of all his weapons he relied most on it. He used to say that the *sheshper* (or mace with six divisions), the rugged mace, the javelin, the battle-axe, or broad axe, if they hit, could only be relied on for a single blow. His trusty keen sword he never allowed to be away from him; it was always either at his waist, or in his hand. As he had been educated, and had grown up, in a remote and out of the way country, he had something of rudeness in his manner, and of harshness in his speech. When I returned back with my uncle the younger Khan, tricked out in all the Moghul finery that has been mentioned, Khwâjeh Abdal Makâram who was along with the elder Khan, did not know me, and asked what sultan that was, and it was not till I spoke that he recognized me.'—p. 107.

On a subsequent occasion, he finishes the portrait with a picturesque touch: the melons, grapes, and stable furniture, are laid in with the hand of a painter.

'I went on and saw my uncle the younger Khan. In my first interview with him, I had come upon him unexpectedly, and gone up to him at once, so that he had not even time to dismount from his horse, and our meeting took place without ceremony. On this occasion, however, when I had approached near, he came out hastily, beyond the range of his tent ropes, and as I walked with considerable pain, and with a staff in my hand, from the arrow-wound in my thigh, he ran up and embraced me, saying, "Brother, you have behaved like a hero!" and taking me by the arm, led me into the tent. His tent was but small. As he had been brought up in a rude and remote country, the place in which he sat was far from being distinguished for neatness, and had much of the air of a marauder's. Melons, grapes, and stable furniture were all lying huddled about in the same tent in which he was sitting.' —p. 112.

Under the auspices of the two Khans, Baber headed a detachment, and made several vigorous attacks upon the towns of his native kingdom. But at a moment when on the eve of success, in an attack upon Andejân, he suffers a serious surprise from the army of Tambol, which had suddenly retreated on the former place, and compells him to make his way to Ush. Of Ush, Baber was already in possession; and from thence he continued his efforts to seize upon the other strong places held by Tambol. The commander of Akhsi Sheikh Bayezid, under a pretence of an anxiety to serve Baber's interests, sent a confidential messenger to invite him to take possession of the place intrusted to his care. Now it was known to Baber and his uncles the Khans, that this invitation was a plan of Tambol's to detach him from the Khans, under the idea that were they to leave the country, he could no longer maintain himself in it. The Moghul princes, in the true spirit of their race, urged Baber

to accept the invitation, and to take the first opportunity of seizing Sheikh Bayezid. The nature of Baber was abhorrent from this treachery, but he considered that he was justified in repairing to Akhsi and availing himself of any advantage that might accrue. He accordingly went and took possession of the place. He was here joined by his younger brother Jehangîr Mirza, that prince having escaped from the custody of Tambol, by whom he was kept simply to give a colour to his own cause. The arrival of Jehangîr appears to have perplexed the Sheikh; at any rate he shewed such symptoms of perturbation and of wavering resolution, that it was suggested to Baber that he ought to be seized: the arrival of Tambol with a considerable body of troops, however, precipitated matters, and either by accident or design, he was arrested while arranging the terms of a treaty.

'At this time Sheikh Bayezîd was in great perturbation, quite unsettled what line of conduct to pursue. The Mirza and Ibrâhim Beg insisted that it was necessary to seize him, and to take possession of the citadel. In truth the proposition was a judicious one. I answered, "I have made an agreement, and how can I violate it?" Sheikh Bayezîd meanwhile entered the citadel. We ought to have placed a guard at the bridge, yet we did not station a single man to defend it. These blunders were the effects of our inexperience. Before the dawn, Tambol arrived with two or three thousand mailed warriors, passed by the bridge, and entered the citadel. I had but very few men with me from the first, and after I came to Akhsi, I had dispatched many of them on different services; some to garrison forts, others to take charge of districts, and others to collect the revenue, so that, at this crisis, I had not with me in Akhsi many more than a hundred. However, having taken to horse with those that remained, I was busy posting them in the entrances to the different streets, and in preparing supplies of warlike stores for their use, when Sheikh Bayezid, Kamber Ali, and Muhammed Dost, came galloping from Tambol to propose a pacification. Having ordered such of my men as had stations assigned them to remain steadily at their posts, I went and alighted at my father's tomb, to hold a conference with them. I also sent to call Jehangîr Mirza to the meeting. Muhammed Dost returned back, while Sheikh Bayezîd and Kamber Ali remained with me. We were sitting in the southern portico of the Mausoleum, engaged in conversation, when Jehangîr Mirza and Ibrâhim Chapûk, after consulting together, had come to a resolution to seize them. Jehangîr Mirza whispered in my ear, "It is necessary to seize them." I answered him, "Do nothing in a hurry: the time for seizing them is gone by. Let us try if we can get anything by negotiation, which is much more feasible, for at present they are very numerous, and we are extremely few: besides, their superior force is in possession of the citadel, while our inconsiderable strength only occupies the outer fort." Sheikh Bayezîd and Kamber Ali were present while this passed. Jehangir Mirza, looking towards Ibrâhim

Chapûk, made a sign to him to desist. I know not whether he misunderstood it, or whether from perversity he acted knowingly; however that may be, he seized Sheikh Bayezid. The men who were around closed in on every side, and, in an instant, dragged away and rifled these two noblemen. There was now an end of all treaty. We, therefore, delivered them both into custody, and mounted for battle.'—p. 114.

The subsequent affray in the town, between the followers of Baber and Tambol's troops, is described with great spirit, and is full of amusing incidents. The event was, however, most unhappy for Baber, and brought him into circumstances of greater danger and distress than he had ever experienced. After a vigorous defence of the town, he is compelled to retreat from it with a few followers, and with a romantic description of his flight, the original Memoirs abruptly break off. They are not resumed till A. H. 910, June, A. D. 1504. In the mean time the historians of the period inform us, that at the invitation of Tambol. Sheibâni Khan made a descent upon the country, with an army "more in number than the rain drops," (says a native writer) defeated the two Khans, took them prisoners, and most probably put them to death. Baber was driven to the mountains, where he continued his wanderings until he resolved to visit Khorasan, at that time governed by the powerful prince sultan Hussain Mirza, and the most distinguished prince then living of the family of Taimar. The Memoirs re-open while he is on his way thither. As he passes, however, through the territories of Khosrou Shah, an upstart chief, who, by cunning and cruelty had raised himself almost to the rank of royalty upon the ruins of the authority of Baber's cousins, the three brothers mentioned in the early part of his Memoirs, Baber ascertained probably by means of some intrigues, that Khosrou's troops and Moghul retainers were favourably disposed towards him; and, before he has wholly traversed his dominions, he is joined by the Shah's brother, and by all his forces. So that in the course of a day the Shah, who was preparing to defend himself against the approach of the formidable Sheibâni Khan, finds the whole trouble taken off his hands, and himself left without a man he could command. The only step left, was to submit to the person who had thus drawn off his army, and he accordingly makes his appearance before Baber and his brother who had joined him. The account of the interview is extremely curious; it is, however, too long for insertion in our confined space: it must, however, be observed, that the humiliation of this man was peculiarly grateful to Baber's feelings; for, on every occasion, he expresses his hatred of the Shah's character, and his horror at the cruelty he had exercised upon his cousins.

Mirza Khan was the youngest son of sultan Mahmûd Mirza, and the brother of Baiesanghar Mirza, whom Khosrou Shah had put to death, and of sultan Masaûd Mirza, whom he had deprived of sight. Mirza Khan therefore seeing the Shah in Baber's power was unwilling to escape, and came before the prince, and accused him of murder; and vindicated his right to his blood. Baber's regard for the conditions of the agreement he had made with the Shah prevailed over his evident desire to punish him: and he was suffered to depart, carrying with him as much of his property as he chose. He accordingly loaded from twenty to thirty mules, and as many camels as he had, with jewels, and gold and silver utensils, and set out towards Khorasan. Baber himself, now supported by a large and powerful army, undertook the conquest of Kâbul—a kingdom of which his uncle Ulugh Beg Mirza had been king, but which, after his death, about three years before Baber's expedition, had fallen into great confusion. Kâbul sustained but a very short siege before it fell into Baber's hands, and the whole country followed it.

The Memoirs contain a full description of the kingdom of Kâbul, the different tribes of its inhabitants, its geographical boundaries, its principal divisions and towns, its productions, its curiosities and beauties: which, though extremely creditable to the pen of a sovereign prince, and abounding in agreeable and useful information, we must altogether pass over as we have already done much similar matter. The industry and minute observation of the emperor is indeed peculiarly remarkable—no custom of the people he visits, if in any way singular, escapes his notice: although in constant motion, and leading the rude and unsettled life of a military wanderer, he appears always to have had his attention alive to the productions of nature of every description, and to have had time for every enlightened inquiry. But we must return to our present task of tracing the events of his life. At this period he is only twenty-three years of age. The possession of Kâbul had an important influence on Baber's fortunes; though they afterwards fluctuated, and even sank into a state of extreme distress: yet by its proximity to India, it subsequently formed a stepping-stone to those conquests which have made his name so celebrated in the East. After he had divided the kingdom of Kâbul among his followers, he deliberated in council on the next expedition, and it was finally resolved to invade Hindostan. He thus records the important fact:—

'January, 1505. In the month of Shâbân, when the sun was in Aquarius, I set out from Kâbul towards Hindustân; and proceeding by way of Badâm-Cheshmeh and Jigdâlîk, in six marches reached Adînapûr.

I had never before seen the Germsîl (or countries of warm temperature), nor the country of Hindustân. Immediately on reaching them, I beheld a new world. The grass was different, the trees different, the wild animals of a different sort, the birds of a different plumage, the manners and customs of the Ils and Uluses (the wandering tribes) of a different kind. I was struck with astonishment, and indeed there was room for wonder.'—p. 156.

This expedition, though not properly intitled to the name of an invasion of Hindostan, was unopposed in its progress; and after reaching the Sind, and installing Jehangîr Mirza in the government of Ghazna, bestowed upon him by his brother, Baber returned to Kâbul in the fifth month after his departure.

At this period Baber's mother died, and interrupted, for a short time, the progress of his enterprizes. He shall describe this event in his own words; for he speaks of it with a feeling that we did not expect in a Mussulman and an Eastern king.

'In the month of Moharrem, my mother, Kutluk-Nigâr Khânum, was seized with the pustulous eruption, termed Khasbeh, and blood was let without effect. A Khorasân physician, named Syed Tabîb, attended her: he gave her water-melons, according to the practice of Khorasân; but as her time was come, she expired, after six days' illness, on a Saturday, and was received into the mercy of God. Ulugh Beg Mirza had built a garden palace on the side of a hill, and called it Bagh-e-Nourozi (the Garden of the New Year). Having got the permission of his heirs, we conveyed her remains to this garden; and on Sunday, I and Kâsim Gokultâsh, (foster-brother) committed them to the earth. During the period of mourning for my mother, the news of the death of the younger Khan, my uncle Ilâcheh Khan, and of my grandmother Isan Doulet Begum, also arrived. The distribution of food on the fortieth day after the Khanum's decease was near at hand, when the mother of the Khans, Shah Begum, my maternal grandmother, Miher Nigâr Khanum, the widow of Sultan Ahmed Mirza, with Muhammed Hussain Gurkam Doghlet, arrived from Khorasân. Our lamentation and mourning now broke out afresh. Our grief for the separations we had suffered was unbounded. After completing the period of mourning, food and victuals were dressed and doled out to the poor and needy. Having directed readings of the Koran, and prayers to be offered up for the souls of the departed, and eased the sorrows of our hearts by these demonstrations of love, I returned to my political enterprizes which had been interrupted, and by the advice of Bâki Cheghâniâni, led my army against Kandahâr.'—p. 169.

On Baber's return from the expedition alluded to, in which his success was chiefly marked by the capture of Khilat by storm, Baki Cheghâniâni, the brother of Khosrou Shah, who had remained with Baber since his defection, and had been apparently a principal adviser of his measures, became discontented, and sought to leave Baber's service. The emperor's account [illegible] transaction is minute, and as it shows the terms

on which a powerful noble stood with his sovereign, and the nature of those offences which took deepest root in this age and in these countries, must be quoted.

'I instantly had them seized; and as Shîr Ali Chehreh had been notoriously guilty of various seditious and mutinous practices, both while in my service, and when in the service of others, and in various countries, he was delivered over to the executioner. Having deprived the others of their arms and horses, I let them go.

'From the time that Bâki Cheghâniâni had joined me on the banks of the Amu, no person about me had been in higher estimation or authority than himself. Whatever was done or said, was said or done by his ascendancy; although I had never experienced from him that duty which was to have been expected, or that propriety of conduct which is indispensably necessary. Indeed, on the contrary, he had done many unjustifiable acts, and shown me many marks of disrespect. He was mean, sordid, malicious, narrow-minded, envious, and cross-tempered. He carried his meanness to such a length, that when he broke up from Termez, and came and joined me with his family and property, though his own flock of sheep amounted to thirty or forty thousand, and though every march numbers of them passed before our face, while my servants and retainers were tortured with hunger, he did not give us a single sheep: at last, when we reached Kehmerd, he then gave them fifty sheep! Although he had himself acknowledged me as his king, he used to have the nagarets beaten before his tent. He liked nobody, and could see no one prosper. The revenue of Kâbul arises from a Temgha (or stamp-tax). This Temgha I bestowed on him; and made him at the same time Darogha of Kâbul and Penjhîr; gave him the property-tax levied from the Hazâras, and conferred on him the office of captain of my guards, with absolute power in my household. Though distinguished by such marks of favour, he was never either thankful or contented; but, on the contrary, cherished the most wicked and dangerous projects of treason, as has been mentioned. I never, however, upbraided him with them, nor mentioned them to him. He constantly affected great chariness, and asked leave to go away. I gave into his dissimulation, and in a tone of apology, refused him the permission he solicited.

'Every day or two he returned again, and used again to begin asking his discharge. His dissimulation, and eternal requests for liberty to depart, at length exceeded all bounds; so that, wearied to death with his conduct and teazing, I lost patience, and gave him his discharge. Disappointed and alarmed at this, he was now in the utmost perplexity; but to no purpose. He sent to remind me that I had made an agreement with him, that I would not call him to account till he had been guilty of nine offences towards me. I sent him by Mûlla Bâba a list of eleven grievances, the justice of which he was forced to acknowledge one after another. He submitted, and having obtained leave, proceeded towards Hindustân with his family and effects.'—p. 171.

It is pretty clear that the emperor himself had become weary of the ascendancy of his minister; and Baber's ge-

neral humanity leads us to hope he was not guilty of his death, which happened on his route. He was taken by a marauding khan on the frontiers, to whom Baber had given a commission, and murdered. Baber moralizes on his death, and quotes two favourite lines of verse on the occasion:

> 'Do thou resign to Fate him who injures thee;
> For Fate is a servant who will not leave thee unavenged.'

About this same time, the defection of Jehangîr Mirza took place: the reason he assigned for this sudden step is truly characteristic of the state of suspicion and apprehension in which royal brethren then lived. An accidental observation of a principal minister is converted into an allegory, and the allegory interpreted into a design against his life.

> 'At the time when Jehangîr Mirza came from Ghaznin, and Kasim Beg and the rest of the Begs went out to meet him, the Mirza had thrown off a falcon at a Bûdineh, or quail. When the falcon had overtaken it, and was in the act of seizing it in his pounces, the quail dashed itself on the ground. There was a cry, "Has he taken it or not?" Kasim Beg observed, "When he has reduced his enemy to such a plight, he will not let him off. No doubt, he will take him." This expression struck him, was misinterpreted, and was subsequently one of the causes of the Mirza's elopement.'—p. 175.

While Baber had been installing himself in the sovereignty of Kâbul, and had followed up his conquests with various inroads upon his neighbours, his old enemy Sheibâni Khan, from his capital of Samarkand, had extended his authority in every direction. Sultan Hussain Mirza, the powerful and respected king of Khorasân, felt called upon to oppose himself to the progress of the arms of the Tartar Chief, and for this purpose summoned all the sovereign members and chiefs of his family to attend him. Among the rest, Baber determined on joining him; when the sultan, who had proceeded some distance at the head of his army, died at an advanced age. Baber, after his usual manner, stops the course of his Memoirs to record his character and his exploits; to describe his family, sketch his courtiers, and as in this instance he is speaking of the sovereign of a highly-civilized capital and a patron of literature and the arts, to give an anecdotic catalogue of all the distinguished poets, historians, philosophers, and literati, that graced his reign. As we have not yet given any examples of Baber's manner in portrait painting, we must not omit his full length of so great a prince as Hussain Mirza. After tracing the descent of the Mirza on both sides, to royal stems, he continues:

> had strait narrow eyes, his body was robust and firm; from the

waist downwards he was of a slenderer make. Although he was advanced in years and had a white beard, he dressed in gay-coloured red and green woollen clothes. He usually wore a cap of black lamb's skin, or a kilpak. Now and then, on festival days, he put on a small turban tied in three folds, broad and showy, and having placed a plume nodding over it, went in this style to prayers.

'On first mounting the throne, he took it into his head that he would cause the names of the twelve Imans to be recited in the Khûtbeh. Many used their endeavours to prevent him. Finally, however, he directed and arranged every thing according to the orthodox Sunni faith. From a disorder in his joints, he was unable to perform his prayers, nor could he observe the stated fasts. He was a lively, pleasant man. His temper was rather hasty, and his language took after his temper. In many instances he displayed a profound reverence for the faith; on one occasion, one of his sons having slain a man, he delivered him up to the avengers of blood to be carried before the judgment-seat of the Kazi. For about six or seven years after he first ascended the throne, he was very guarded in abstaining from such things as were forbidden by the law; afterwards he became addicted to drinking wine. During nearly forty years that he was king of Khorasân, not a day passed in which he did not drink after mid-day prayers; but he never drank wine in the morning. His sons, the whole of the soldiery, and the town's-people, followed his example in this respect, and seemed to vie with each other in debauchery and lasciviousness. He was a brave and valiant man. He often engaged sword in hand in fight, nay, frequently distinguished his prowess hand to hand several times in the course of the same fight. No person of the race of Taimur Beg ever equalled Sultan Hussain Mirza in the use of the scymitar. He had a turn for poetry, and composed a Diwân. He wrote in the Tûrki. His poetical name was Hussaini. Many of his verses are far from being bad, but the whole of the Mirza's Diwân is in the same measure. Although a prince of dignity, both as to years and extent of territory, he was as fond as a child of keeping butting rams, and of amusing himself with flying pigeons and cock-fighting.'—p. 177.

Of the kind of pursuits fashionable in Hussain's capital, and of the success with which the poetry and the lighter arts of literature were cultivated, a better idea may be obtained from the character of the sultan's favourite minister, the celebrated Ali Shîr Beg:—

'Another of them was Ali Shîr Beg Nawâi, who was not so much his amîr as his friend. In their youth they had been schoolfellows, and were extremely intimate. I know not for what offence he was driven from Heri by Sultan Abusaîd Mirza; but he went to Samarkand, where he remained for several years, and was protected and patronized by Ahmed Haji Beg. Ali Shîr Beg was celebrated for the elegance of his manners; and this elegance and polish were ascribed to the conscious pride of high fortune: but this was not the case; they were natural to him, and he had precisely the same refined manner when he

was in Samarkand. Indeed, Ali Shîr Beg was an incomparable person. From the time that poetry was first written in the Tûrki language, no man has written so much and so well. He composed six mesnevis in verse, five in imitation of the Khamsah (of Nizâmi), and one in imitation of the Mantik-ut-teir (the Speech of the Birds). This last he called Lissân-ut-teir (the Tongue of the Birds). He also composed four diwâns of ghazels (or odes), entitled—The Singularities of Infancy—The Wonders of Youth—The Marvels of Manhood—and The Benefits of Age. He likewise composed several other works, which are of a lower class and inferior in merit to these. Of that number is an imitation of the Epistles of Moulâna Abdal-rahman Jâmi, which he partly wrote and partly collected. The object of it is to enable every person to find in it a letter suited to any business on which he may desire to write. He also wrote the Mizân-al-Auzân (the Measure of Measures) on Prosody, in which he is very incorrect; for, in describing the measures of twenty-four rûbais (quatrains), he has erred in the measures of four; he has also made some mistakes regarding other poetical measures, as will be evident to any one who has attended to the structure of Persian verse. He besides completed a diwân in Persian, and in his Persian compositions he assumed the poetical name of Fâni. Some of his Persian verses are not bad, but the greater part of them are heavy and poor. He has also left excellent pieces of music; they are excellent both as to the airs themselves and as to the preludes. There is not upon record in history any man who was a greater patron and protector of men of ingenuity and talent than Ali Shîr Beg. Usta Kûli Muhammed, the celebrated Sheikhi, and Hussain Aûdi, who were so distinguished for their skill in instrumental music, attained their high eminence and celebrity by the instructions and encouragement of Ali Shîr Beg. Ustâd Behzâd and Shah Muzaffer owed the extent of their reputation and fame in painting to his exertions and patronage; and so many were the excellent works which owed their origin to him, that few persons ever effected any thing like it. He had no son, nor daughter, nor wife, nor family: he passed through the world single and unencumbered. At first he was keeper of the signet; in the middle part of his life he was invested with the dignity of Beg, and held the government of Asterâbâd for some time. He afterwards renounced the profession of arms, and would accept of nothing from the Mirza: on the contrary, he annually presented him with a large sum of money as an offering. When Sultan Hussain Mirza returned from the Asterâbâd campaign, the Beg came out of the city to meet him: between the moment of the Mirza's saluting him and his rising, he was affected with a sudden stroke, which prevented his getting up, and he was obliged to be carried off. The physicians were unable to render him any assistance, and next morning he departed to the mercy of God. One of his own couplets was highly applicable to his situation;—

'(*Tûrki.*)—I perish of a mortal disease, though I know not what it is;
In this disease, what remedy can physicians administer?'—p. 184.

" vever skilful the poets and musici[illegible] this court may
n, it is pretty clear [illegible] was not very

far advanced, or its physicians could have explained that the Beg had fallen under a stroke of apoplexy. Ali Shîr's popularity in Heri is thus marked and coupled with a joke of a noted wit:—

'As Ali Shîr Beg was the author and patron of many and useful inventions, every man who made any discovery or invention in his art or profession, in order to give it credit or currency, called it the Ali Shîri. Some carried their imitation of him to such an excess, that Ali Shîr Beg having tied a handkerchief round his head, on account of an earache, that style of tying a handkerchief came to prevail, under the name of the Ali Shîri fashion. When Binâi left Heri for Samarkand, as he was setting out, he ordered rather an uncommon sort of pad for his ass, and called it the Ali Shîri. The Ali Shîri pad became common, and is now well known.'—p. 195.

We can afford no space for the scores of characters that follow, and though many of them contain very curious traits, we shall only allude to one, and that because his great qualities are enumerated in a single line. Of Muhammed Syed Urûs it is said, that "his bow was strong, and his arrow long, and its range far, and his aim sure." The two sons of Hussain named Badîa-ez-zemân, and Mozeffer Hussain, succeeded their father in a joint sovereignty: an equivocal kind of authority which moves the ridicule of Baber, who had not heard of the two kings of Brentford. "A joint kingship," says he, "was never before heard of. Ten dervishes, according to the poet, can sleep on one rug, but the same climate of the earth cannot contain two kings."

The death of Hussain, though it retarded did not prevent the combined expedition of the princes of Khorasân against Sheibâni Khan. Baber proceeds to join them, and describes with an amusing particularity the ceremonies of his reception. After the grand interview, an entertainment is given at which wine was put down along with the meat. Baber who had been brought up strictly according to the institutions of Chengîz, had never transgressed the article of the Mussulman faith against drinking wine, and he appears to have been somewhat shocked at the openness as well as the freedom with which the sin was practised in the luxurious camp of the princes of Khorasân. When, however, the winter brought him to Heri, the solicitations of his entertainers, and the joviality of the guests, when coupled with the intoxicating splendour and elegance of the court, produced their usual effects upon the mind of a young and ardent character, and he confesses that he was sorely tempted to taste the forbidden beverage. At that time he never had even tasted the wine in which he afterwards

indulged to such an extreme that he is supposed to have shortened his life by his jovial drinking parties, together with the less social enjoyment of the maajun.

Baber not finding winter quarters in Khorasân to his satisfaction, determined to return to Kâbul, although the year was advanced. On his route back, his army was overtaken by the snow among the mountains, his guides lost their way, and he and his troops were condemned to suffer greater hardships than he had ever experienced. The army worked themselves out of the snow with immense difficulty; the peril was hardly passed before new troubles of another kind awaited Baber at home. Those of the Moghuls, the former adherents of Khosrou Shah, a turbulent and treacherous race who remained behind in Kâbul, had, during the absence of Baber, proclaimed Khan Mirza his cousin, and the son of the former sovereign of Kâbul, king: so that his first business on his return was to subdue a rebellion. Although a task of some danger, Baber's activity and ability carried him safely through it; and, when all the principal persons engaged in it fell into his hands, he conducted himself with a most praiseworthy lenity.

The princes of Khorasân were not men of the right stamp for forming the heads of a successful expedition to the rude but energetic measures of Sheibâni Khan. In the expedition, joined by Baber, they had wasted their time and effected nothing, and after his return they quietly yielded before the overwhelming force of the Uzbek. Sheibâni added the kingdom of Khorasân to his conquests, while Baber was conducting a most successful invasion of Kandahâr: he obtained possession of the country, and brought away with him treasures from its capital, which enriched his meanest soldiers. His place in Kandahâr was quickly occupied by the active Sheibâni, who very soon after Baber had fortunately retired, himself appeared in that kingdom. The conquests of this man had, however, arrived at their limit; for, approaching too near the dominions of Persia, Shah Ismâel, the powerful monarch of that country, headed a considerable army against him, defeated and slew him. Previous to this point of the history, however, Baber's Memoirs again break off, and we are left to discover from other sources the events that took place between the twenty-fourth year of his age, and the thirty-fifth. During this period, it is ascertained, that by another revolt of the Moghuls in his service, he was reduced to carry on a marauding warfare with his own subjects, in the course of which, he behaved with a gallant activity which inspired the whole of that part of the world with admiration. On one occasion, when he probably felt that some

desperate step was the wisest policy under his circumstances, he challenged Abdal Rizak, whom the Begs had again set up as king of Kâbul, to single combat. This prince declined the contest, but sent in his place five champions in succession, all of whom fell under the prowess of Baber. Having gradually recovered his dominions of Kâbul, and the fate of Sheibâni Khan having again excited his hopes of repossessing his paternal kingdoms, he set out against Sarmarkand, and with the assistance of the king of Persia succeeded in seizing upon that city a third time, only to be a third time driven from it. The Uzbeks, though deprived of their leader, were not either of a character, or so deficient in numbers and strength, to be expelled from their conquests by a single defeat. Making head again, they once more drove Baber from Samarkand, overturned the Persian forces, and put their general to death. Baber, in the end, seeing all hope of recovering Hissâr and Samarkand totally vanished, once more recrossed the Hindukush mountains, attended by a few faithful followers, who still adhered to his fortunes, and again arrived in the city of Kâbul. From this time he seems to have abandoned all views on the country of Mâweralnaher, and was "led by divine inspiration," says the courtly Abufazil, writing in the reign of his grandson, "to turn his mind to the conquest of Hindustân."

The Memoirs re-open with the events of A. D. 1519, and breaking off again in the beginning of the following year, are not resumed till the latter end of A. D. 1527, from which period they are carried down till within fifteen months of Baber's death, an event which took place in A. D. 1530, in the forty-eighth year of his age. Up to this point the history of his life has been carried on in the form of a narrative, and in a simple and lively style, which the editor justly compares to the picturesque manner of Froissart. From their resumption in A. D. 1529, they however take the form of a journal, which, while it is more in detail than the narrative, is much less amusing. From the minute scale on which such of the history of the six invasions of Hindustân as remains, is drawn; from the quantity of geographical distinctions and military movements in which it abounds, we must decline the task of giving even a sketch of that conquest in the remainder of this article. It must suffce to state that Baber's progress was one of invariable success; and that after enjoying his acquisition for a short period, as far at least as declining health is compatible with enjoyment, he bequeathed his Indian empire to his son Hûmaiûn, the father of Akber, and the race of sovereigns improperly called the Moghuls. It is in-

k, singular that the erroneous practice in Hindustân of

calling all those Moghuls who come from the North, and whose complexions are light, should have caused the empire which Baber won to be named from a race which he detests, and which he takes every opportunity in his Memoirs to vilify.

We have seen Baber's temptation on the subject of drinking wine: the whole of the latter part of his Journals forms a very lively contrast to the primitive abstemiousness of his youth. Scarcely a day passes without recording an instance of excessive indulgence, and though the writer makes frequent resolutions to repent, he does not the less describe his social parties with an air of joviality and boon companionship, which in our ignorance we had conceived to be exclusively northern. He gives on one occasion an instance of his forbearance from wine, and of respect for the feelings of a strict Mussulman, which does him credit:—

'On Tuesday the 19th, I went out about noon, to make a tour round Khwâjeh Syârân. That day I was fasting. Yûnis Ali and some others said with surprize, "What! Tuesday, and you fasting! This is a miracle!" On reaching Behzâdi, we halted at the Kazi's house. That night we had made every preparation for a jolly party, when the Kazi came to me and said, "Such a thing was never yet seen in my house; however, you are the emperor and the master." Although the whole apparatus for our merry-making was ready, yet, to please the Kazi, we gave up our intention of drinking wine.'

Baber had made a resolution to leave off wine at forty years of age, and we find him the nearer he approached to that period, avowedly on that ground drinking the more copiously; at other times, he makes any brilliant prospect which raised his spirits the excuse; he was always accustomed to pitch his camp on an eminence, while his army occupied the valley below; he describes the appearance of his people's fires being so brilliant and beautiful, that in an undulating country, he never could refrain from drinking wherever he halted. At length, one day, February 25th, 1527, as he was riding, he was, he says, seriously struck with the reflection, that he had always resolved, one time or another, to make an effectual repentance. "I said to myself, O my soul,

> "How long wilt thou continue to take pleasure in sin?
> Repentance is not unpalatable—taste it—"

and he breaks his goblets and renounces wine for ever.

Baber's kindness and affection to every member of his family is conspicuous in these Memoirs; and his parental fondness for Hûmâiûn, his eldest son, is said to have been such, that at a time when his son was supposed to be in the last extremity, from a se-

vere illness, he devoted his own life cheerfully to save his son's. It is true that the ceremony which he practised was a superstitious one; and that the death of Baber, and the immediate recovery of his son were accidents; but this does not diminish the feeling with which the sacrifice was made. The letter written to Hûmâiûn, which is inserted in the journal, is a pleasing proof, not only of the affection and wisdom of the father, but some of the points relating as they do to minute elegancies of composition, shew the emperor in the light of a critical and accomplished scholar. Other parts of the narrative prove him a jovial companion: a brave and active chieftain: a man cheerfully submitting to hardships, and preserving an elasticity of mind in the midst of discomfiture; other parts exhibit him again as a prince of a forgiving and generous temper, occasionally severe in his punishment, but, for his times, a model of lenity and true magnanimity: as a lover of all the elegant arts: as a composer of music and of verse: and as a writer of treatises on both: as a lover of flowers and prospects, and a keen enquirer into objects of natural history. But it is still more curious, if not so worthy of remark, to meet with the hardy warrior who was celebrated for leaping from pinnacle to pinnacle of the pinnated ramparts used in the east, in his double-soled boots, and with a man under each arm, lecturing his son on the incorrectness of his spelling.

Baber died near Agra, not two years after the date of the letter alluded to, in December, 1530. His body, in conformity with a wish he had expressed, was carried to Kâbul, where it was interred in a hill that still bears his name. He had reigned five years over a principal part of Hindustan.

END OF VOL. VIII.

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